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SOUTH DAKOTA ADVISORY COMMITTEE

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U.S. COMMISSION ON CIVIL RIGHTS

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Community Room

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Aberdeen Public Safety Building

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114 2nd Avenue SE, Aberdeen, SD 57401

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Friday, March 24, 2017

14

1:00 p.m.

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"The Subtle Effects of Racism in South Dakota"

17

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19

Advisory Committee Members present:

20

Dr. Richard M. Braunstein, Chair

Mayor Mike J. Levsen

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Charles T. Abourezk

Melanie K. Bliss

22

Arlouine Gay Kingman

Lloyd C. LaCroix

23

Scott D. German

24

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1 DR. BRAUNSTEIN: Good morning. Well, good
2 afternoon. I feel kind of weird sitting over here in the
3 corner, so I'll just wave to everyone. I want to welcome
4 everyone for coming today. My name is Rich Braunstein and
5 I'm the chair of the South Dakota Advisory Committee to the
6 U.S. Commission on Civil Rights, and I'm here today with
7 fellow committee members who I'll ask to introduce themselves
8 in just a minute.

9 I want to thank everyone for coming today. This
10 is a meeting of the South Dakota Advisory Committee to the
11 U.S. Commission on Civil Rights, and we shall come to order.

12 With that, I'll ask everyone on the committee,
13 these are all committee members, to just briefly introduce
14 themselves.

15 MAYOR LEVSEN: Mike Levsen, mayor of Aberdeen.

16 MR. ABOUREZK: Charlie Abourezk, a lawyer from
17 Rapid City, South Dakota.

18 MS. BLISS: Melanie Bliss from Sioux Falls.

19 MS. KINGMAN: Gay Kingman, member of Cheyenne
20 River Sioux tribe, and Executive Director to the Great Plains
21 Tribal Chairman's Association.

22 MR. LACROIX: Lloyd LaCroix, Pennington County
23 Commissioner.

24 DR. BRAUNSTEIN: Now I'll ask, did everyone hear
25 everyone?

1 testimony today from law enforcement, from tribal leadership,
2 from state and federal agencies, from community
3 organizations, and from the public at-large regarding the
4 subtle effects of racism in the State of South Dakota. So
5 that is our overarching thesis, right, to examine the subtle
6 effects of racism in South Dakota.

7 This meeting is the first of three that will be
8 held to satisfy this agenda, this interest that we have in
9 understanding both what forms of subtle racism exist in our
10 state, as well as what is being done to remedy and account
11 for -- really to inhibit, if you will, the lifelong effects
12 of racism on the mind, the spirit, the productivity and place
13 of citizens of South Dakota.

14 In this first meeting here in Aberdeen today, we
15 are particularly interested in learning more about the value
16 of body-worn camera programs by law enforcement in the area
17 of community policing, all right. We look forward to better
18 understanding how body-worn camera programs assist in the
19 effort to inhibit subtle forms of racism in our state, with
20 particular relevance for the Native American and immigrant
21 communities here in the State of South Dakota.

22 To help us with this mission, we have invited
23 knowledgeable individuals from a wide range of experience and
24 viewpoints to share their information with us, and also
25 welcome the public's input on those topics. We are not going

1 AUDIENCE MEMBERS: No.

2 DR. BRAUNSTEIN: No, okay. We're having some
3 concerns about being able to be heard in this venue. Should
4 we maybe try to move the table forward? All right, we are
5 out of session right now. We're going to move the tables
6 just to make sure everyone can hear.

7 (Moving tables.)

8 DR. BRAUNSTEIN: We're going to come back to
9 order. I also want to introduce Malee Craft who's director
10 and Evelyn Bohor who is a support staff, both of the Rocky
11 Mountain Regional Office of the U.S. Commission on Civil
12 Rights. They have done a fantastic job organizing our event
13 for today and I appreciate them traveling from Colorado here
14 to South Dakota. Did you want to add something, Evelyn?

15 MS. EVELYN BOHOR: No, no.

16 DR. BRAUNSTEIN: No, you're good, okay.

17 The United States Commission on Civil Rights has
18 established advisory committees in each state to advise the
19 commission on matters pertaining to discrimination or denials
20 of equal protection of law. Towards that mandate, we are
21 here today to listen to civil rights issues of concern to
22 citizens of the state, to local, state, federal and tribal
23 agencies, and the corresponding committee organizations that
24 are here and interested in our work.

25 The advisory committee anticipates hearing

1 to limit our discussion exclusively to body-worn cameras, but
2 we would like to have the discussion today serve the interest
3 of understanding subtle forms of racism in our state, as well
4 as what is being done to mitigate the harm of subtle forms of
5 racism.

6 The advisory committee appreciates the
7 cooperation of all those that have agreed to participate.
8 The committee appreciates the engaged and accessible
9 leadership of Aberdeen, South Dakota and all of Aberdeen's
10 fine citizens and all citizens who have traveled from great
11 distances to join us here today.

12 At the outset, we want to remind everyone present
13 that this meeting is open to the public. It's open to the
14 media, and it is being recorded and transcribed as a matter
15 of public record.

16 Although some of the information here today may
17 be controversial, we want to ensure that all invited guests
18 and those who stand from the public later today are thanked
19 for their efforts and for their integrity for agreeing to
20 participate in our discussion today. We aspire to a civil
21 discussion that neither unfairly nor illegally degrades any
22 person or organization, and we welcome all testimony in the
23 interest of becoming more informed.

24 We ask that any persons who would like to be
25 scheduled to make a presentation to the advisory committee

1 complete a short form identifying what your concerns or
 2 thoughts are focussed on. Persons can also submit written
 3 statements to the staff here today or by mail at the address
 4 found on the agenda which is available. If you don't have an
 5 agenda, there are copies of the agenda at the back table, and
 6 the address that you can submit written testimony is provided
 7 on that agenda.

8 The record for this meeting will close in one
 9 month, right, that's April 24th of 2017. So if you're not
 10 able to address the committee today in person, or if you're
 11 not comfortable addressing the committee today in person and
 12 would like to send your comments, your contributions via
 13 e-mail or regular mail, please do not hesitate as we value
 14 and welcome your contributions.

15 Finally, again, I want to express our sincere
 16 appreciation to the presenters, to the members of the public,
 17 and to the organizations in attendance today. Your
 18 willingness to participate in this briefing meeting supports
 19 the work of the U.S. Commission on Civil Rights, it supports
 20 the work of this advisory committee to that commission and is
 21 a testament to the vitality and human spirit of this
 22 community, so thank you very much for your participation.

23 We're going to begin our agenda today with just
 24 some preparatory comments, first from Mike Levens, the mayor
 25 of Aberdeen, and then I'll introduce Charlie Abourezk.

1 bringing up the accident and wanting to talk about it. She
 2 just couldn't put it behind her. Well, why do you think that
 3 was?

4 It was a hit and run accident. She didn't know
 5 the color of the driver of the other vehicle. She didn't
 6 know how to think about that accident. She didn't know how
 7 to classify that accident in her mind. She didn't know how
 8 to get past it and move forward with her life because all of
 9 her life up to that point had taught her that everything that
 10 she would do was viewed in light of the color of people that
 11 she was interacting with. And are we any different?

12 We all have those influences, maybe not as much
 13 as South Africa where it's required by law, but we all have
 14 those contributions to our life as we grow up where we see
 15 things, we hear things, we store them in our brain, whether
 16 we know it or not, and the result of those things are, even
 17 among good people, subtle racist actions.

18 Let me give an example closer to home. This
 19 happens to be Rapid City, but it could be anywhere. I
 20 stumbled across this news story that I read off the wire and
 21 I'm reading this word for word. "Detectives are looking for
 22 a robbery suspect in Rapid City. At around 5 a.m. Monday
 23 inside a hotel, a man pointed a gun at an employee and
 24 demanded money. He complied, gave the suspect an undisclosed
 25 amount of money. Although police set up a perimeter, a

1 MAYOR LEVSEN: All right. Thank you, Rich, I
 2 think I'll sneak around here so I'm not standing behind
 3 people.

4 We're running a little late, so I will be maybe
 5 more brief than I thought I would be. I'm usually not.

6 I want to welcome you all here and certainly tell
 7 you, first of all, one of the reasons that I'm here is that I
 8 am so proud of our police department and the way they have
 9 implemented the police camera operation here in Aberdeen. We
 10 were one of the first in the country, and I don't want to
 11 take away from the time that he's going to explain that.

12 Rich explained what we're doing here, but just to
 13 give you maybe another idea of how I look at this and how I
 14 approach this and how I think about subtle racism, I would
 15 relate a story that I read some years ago and I never really
 16 forgot it.

17 A man who grew up and lived in South Africa moved
 18 to the United States and went home to visit his mother.
 19 While he was in South Africa, his mother was involved in a
 20 car accident at an uncontrolled intersection. Lots of
 21 damage, a significant accident, but she wasn't seriously
 22 hurt, and he stayed in South Africa with his mother for a
 23 while, and after she recovered from her small injuries from
 24 the accident, weeks had passed. She couldn't sleep. She
 25 wasn't eating. At every possible occasion she would keep

1 suspect was not found. He is described as a man last seen
 2 wearing a red bandana, sunglasses, a black sweatshirt and a
 3 red hood." And all that description, that's probably pretty
 4 helpful if you're looking for this man, right? But what else
 5 did they include?

6 He's a Native American man. Didn't say if he was
 7 tall or short, didn't say if he was fat or thin, didn't say
 8 if he was old or young, didn't say if he had a beard or not.
 9 Didn't do anything else that would help you identify this man
 10 other than his clothes and his race, and I'm sure the
 11 person -- or I would suspect the person that wrote this did
 12 it very much according to what he or she thought she was
 13 supposed to do. Why? Because we, the public, with our
 14 background and with the contributions to our lives about
 15 racial issues, we demand that that information be given to
 16 us, and if it isn't, we ask for it.

17 So what are the subtle effects of that? Well,
 18 the subtle effects then show up in that all of these things
 19 that you have accumulated in your mind affect you in your
 20 interpersonal relations, when you are going to hire someone
 21 or rent to someone or just interact with them personally, or
 22 in this case today, when you're dealing with them as a
 23 policeman, and every policeman that we hire, every officer
 24 that we hire in Aberdeen brings 20 or 25 or 30 years of
 25 subtle influences on them, like the woman in South Africa who

1 may have been a wonderful person, but she didn't know any
2 other way and she didn't even realize how dependent she was
3 on that recognition of the color of the other person.

4 So the point is you've got to fight it. You've
5 got to take it out of your life and you've got to train your
6 way out of it, and what better tools to do that than
7 body-worn cameras and so that's why I'm so happy with the
8 fact that we have them here, and I'm looking to Captain
9 McNeil to be able to tell you all about how we do it.

10 So thanks all for coming. This event today has
11 absolutely nothing to do with the question about whether or
12 not we should have more refugees or more immigrants or more
13 minority people in Aberdeen. That question is decided.
14 They're coming. They're here. We're never going to be 98
15 percent white again. That's a question that the people who
16 have nothing else to do can fight about on their own. This
17 today is how we deal with things the way they are, and I'm
18 proud of the way our police department does it, and I hope
19 you'll appreciate what they tell you. So thanks for coming.

20 DR. BRAUNSTEIN: Thank you, Mayor Levsen. As I
21 mentioned before, today is the first of three meetings that
22 all focus on the topic of concerns across our state for the
23 subtle forms of racism, and one of our committee members,
24 Charlie Abourezk, has agreed to orient us all on the
25 committee and everyone in attendance today about his thoughts

1 been a very valuable member of our state committee, to
2 discuss various areas of civil rights we continue to focus
3 on. You will hear discussion today primarily about our
4 continuing study of the interaction between law enforcement
5 and our citizens, particularly minority citizens where the
6 greatest flash points have been in recent times.

7 I've been asked to make introductory remarks
8 about some of the general principles of racial
9 discrimination, racism and its more recent forms which are
10 much more subtle, which we might call unconscious racism. We
11 do so because it is the subtle forms of discrimination which
12 are always operating below the surface of interactions with
13 racial minorities, immigrants, or people of different
14 national origin in employment, housing, law enforcement,
15 consumer interactions, medical care and so many other core
16 functions of American life. South Dakota is not exempt and
17 in fact we've had our own flash points in recent history.

18 Nothing creates anxiety, in my experience, quite
19 like talking about race and the charged word racism because
20 it is so seldom dealt with consciously in our daily lives.
21 More so these days, racism exists in a kind of twilight legal
22 realm where we do not consciously think about its operation,
23 and encounter it only when its effects explode into the
24 public eye, and then we deal with it only long enough to
25 quiet the explosion. As President Eisenhower alluded to, our

1 on subtle forms of racism, and so I introduce Charlie
2 Abourezk to make those comments.

3 MR. ABOUREZK: Thank you. Is it working?

4 CAPTAIN MCNEIL: Yep.

5 MR. ABOUREZK: Thank you for accommodating me. I
6 had neck surgery in December so my voice is not fully back
7 yet.

8 In 1957, President Eisenhower signed into law the
9 establishment of the U.S. Commission on Civil Rights. At the
10 signing, he said, "In a democratic society, the systemic,
11 critical review of social needs and public policy is a
12 fundamental necessity. This is especially true of a field
13 like civil rights, where the problems are enduring, and range
14 widely, and where a temporary, sporadic approach can never
15 finally solve these problems."

16 The U.S. Commission on Civil Rights went on to
17 establish official state advisory committees like ours, that
18 would essentially be like a nervous system out at the state
19 level, and extend the ability of the commission to both find
20 out what was going on at the state levels and to prepare
21 reports and make recommendations, as well as help to
22 perpetuate the constitutional and legal obligations which our
23 nation has to ensure civil rights for all Americans.

24 It is in this larger context that the committee
25 meets here today at the invitation of Mayor Levsen, who has

1 nation benefits greatly from dealing with civil rights of
2 minorities and immigrants in a more systemic fashion.
3 We can feel quite detached from the concept of
4 racism, and in fact, yet perpetuate it without being
5 conscious of it. In fact, our lack of consciousness of race
6 and racism is one of the primary defenses against identifying
7 and dealing with our own role in the system of racial
8 discrimination. So it is in this context that we talk about
9 subtle forms of racism today, which really is a discussion
10 about the system of racism and the operation of racial
11 discrimination below the radar in our daily lives.

12 I really like sociologist David Wellman's
13 definition. He said racism does not equate with prejudice,
14 but rather is a structural relationship based on the
15 subordination of one racial group by another. The
16 determining feature of racism is not prejudice toward blacks
17 or other minorities, but rather the superior position of
18 whites and the institutions, both ideologically and
19 structurally, which maintain it. In other words, it is a
20 system within which prejudice racial stereotyping and all
21 other racially-rooted acts occur, and it's really important
22 to think about it like that.

23 Racism is by definition about control by the
24 dominant race and the maintenance of their privilege --
25 privilege which, in a system of finite or limited social and

1 economic choices, is by definition at the expense of
 2 minorities. In other words, you might think of social
 3 choices as like a ball of clay. If we take some of that ball
 4 of clay out of the bottom and put it on top, that means that
 5 some people scientifically have to have fewer choices, and
 6 racism operates much the same way.

7 Racism utilizes various mechanisms which work at
 8 the conscious and unconscious level to maintain a superior
 9 social and economic position by the dominant majority. These
 10 forms include racial stereotyping, prejudice, discrimination
 11 in housing, employment, health care, and public safety and
 12 what we might call other acts of unconscious racial
 13 discrimination which have a far greater daily effect upon
 14 minorities than upon members of the majority.

15 Psychiatrist and racism expert Joel Kovel sets
 16 forth two kinds of racism, bigotry and aversive racism, and I
 17 want to primarily talk about bigotry today because that's the
 18 kind of racism with which we tend to be most familiar with is
 19 the in your face, often overtly hostile racism exhibited by
 20 working classes, poor and lower middle classes, and it's the
 21 more prevalent form of racism we might see in South Dakota
 22 and it's carried out in everyday interactions.

23 As Wellman and other experts have described,
 24 bigotry exists more among the lower and middle classes for
 25 very good reasons. These classes are much more insecure in

1 than half of our nation tends towards authoritarianism.
 2 These are folks who have a greater need for order and
 3 conversely, less tolerance for confusion or ambiguity, and
 4 they are very reliant on established authority to provide
 5 them a sense of order. They feel greater threat from
 6 ambiguous and often changing nature of the complicated world
 7 around them. They quite often see racial minorities and
 8 immigrants as easy-to-identify symbols of their sense that
 9 their world is falling into disorder and chaos, and that they
 10 are losing power and status, and thus their defenses against
 11 all that, including their bigotry, are greatly heightened.

12 The Ku Klux Klan and other white supremacist
 13 organizations fit within the bigotry category. There's a
 14 tendency to focus only upon those organizations as the groups
 15 where racism currently occurs. As academic and author Dr.
 16 Carol Anderson states in her recent book, *White Rage, the*
 17 *Unspoken Truth of Our Racial Divide*, the focus on the Klan
 18 also help to designate racism as an individual aberration
 19 than something systematic, institutional and pervasive. This
 20 tends to be a generalized truth, that society often believes
 21 that the racism problem has somehow been solved. While there
 22 has been significant progress over the past few generations,
 23 this is not the experience of minorities living in present
 24 day South Dakota or America.

25 As Wellman states, instead of being a remnant

1 their socioeconomic status in society, and they are more
 2 likely to see minorities and immigrants as competitors for
 3 jobs, social status and scarce resources. In fact, the
 4 greater the income inequality, the greater the chance that
 5 racism and bigotry are on the rise. It is in this context
 6 why we can see that demands for racial parity pose basic
 7 threats to a bigot's often insecure position in American
 8 society.

9 Those folks, who in reality have more in common
 10 with minorities than they do with upper classes, sense that
 11 they stand to gain little from racial equality, and it is
 12 fairly easy to misdirect their anger at minority scapegoats,
 13 rather than the real sources of their powerlessness.
 14 Ethnocentrism, xenophobia, authoritarianism, and prejudice we
 15 saw best exemplified in the television character Archie
 16 Bunker is often found among those lower classes.

17 As Wellman states, most studies locate the
 18 highest levels of authoritarianism among the following
 19 groups: The poorly educated, the aged, those living in rural
 20 areas, poor minorities, dogmatic religious groups, people of
 21 low socioeconomic status, social isolates, and people raised
 22 in authoritarian family situations. That's Wellman's
 23 description.

24 We do, indeed, live in authoritarian times right
 25 now. The data shows that at least a third to a little less

1 from the past, the social hierarchy based upon race is a
 2 critical component of the organization of modern American
 3 society. The subordination of color is functional to the
 4 operation of American society as we know it and the color of
 5 one's skin is a primary determinant of a person's position in
 6 that social structure.

7 You know, and I think that if we think about the
 8 way we take in experiences in our life, when we grow up, we
 9 look around for social consensus and then we take in
 10 subsequent experiences based upon the consensus that we
 11 brought into ourselves.

12 Our views about race are like a belief system
 13 which operates at all times below the surface, and it is our
 14 belief systems which shape the way we take in our experiences
 15 and filter information about the world.

16 If I am raised as a person who is told that
 17 people of a certain race do not like me or want to take
 18 advantage of me, or are lazy or alcoholics, then that is what
 19 I will see when I encounter persons of that race, and I will
 20 filter out those parts of the experiences which do not match
 21 with my belief system with those predescribed notions.

22 Oftentimes racism and its progeny including
 23 prejudice, bias and stereotyping, operates from this belief
 24 system which favors, in this country, white privilege and
 25 control of all of the institutions that matter. This system

1 is so ingrained and operates so unconsciously that oftentimes
2 members of the dominant race do not need to think about or
3 expend any emotional energy to continue the operation of
4 racism. It just becomes habitual.

5 People in rural states much like our own, with
6 significant minority or immigrant populations, have few
7 centers of wealth and we largely have a population which is
8 stuck or immobile because they're unable to move closer to
9 better paying jobs due to a variety of economic and
10 structural obstacles.

11 It is in these settings where the interactions of
12 minorities -- in this state, largely American Indians -- and
13 whites take place in a continuous fashion, in often intimate
14 interactions, in gas stations, grocery stores, malls,
15 relationships with landlords, health providers, and quite
16 often with law enforcement or the justice system.

17 A working class white person behind the cash
18 register at a convenience store who demeans an American
19 Indian during a transaction, for example, may not remember
20 beyond a few minutes that they were involved in a subtle form
21 of racial aggression against a racial minority who's a
22 customer because of their dominant racial status and the way
23 in which their belief system is formed. They can move
24 forward after that encounter with their day, while a minority
25 who has been exposed to a lifetime of such slights or

1 and she came up to me afterwards and she was too ashamed to
2 say it in public, but she said you know when I was growing
3 up. She lived on the Pine Ridge Indian Reservation, and she
4 said we had to go to the store in Nebraska just in a border
5 town, and she said my grandmother would take her list of
6 groceries and she would stand by the front door, the store
7 owner would come to the front door, take her list, and then
8 her and her grandmother walked around in the alley and waited
9 and then the store owner would hand the sack of groceries out
10 the back door to her, and she said, you know, all my life, I
11 was embarrassed of my grandmother because of that, and she
12 said I used to think, "Why don't you fight back or why don't
13 you be stronger?" And she said, you know, she said that
14 probably changed her relationship with her grandmother and
15 also changed the way she interacted in society as well.

16 Well, later on, she became a grandmother herself,
17 and this incident happened two years ago. She was at another
18 border town in Nebraska at a Walmart and she had had an item
19 that she'd put on layaway and she was with her granddaughter,
20 and she went back there and asked for it. She said, you
21 know, we mistakenly sold it, and she said, "Well, can you
22 just give me my money back?" She said, "No, you have to take
23 a credit and buy something else in the store." She said, "I
24 didn't want anything else, I just wanted that." She said,
25 "Just a minute," and she grabbed the microphone and she says

1 aggressions based upon race will exhaust a great deal of
2 emotional energy in that encounter. These kind of offhand
3 words and actions dominate much of their social interactions
4 with whites, and each experience adds to another drop of a
5 lifetime pool of a sense of inferiority and the loss of
6 dignity and security in social situations. It also creates a
7 permanent sense of being less than others, and then the
8 inevitable questioning of the self, "Is there something wrong
9 with me or is it them?"

10 And the data shows that minority children, for
11 example, in school have to work considerably harder to try to
12 figure out where they fit in socially, how to interact with
13 the teacher, while white children can often just move ahead
14 with academics because they are sort of the inheritors of
15 that system, and you know, oftentimes the data shows minority
16 children slowly fall behind in that race because they have so
17 many additional burdens at the starting line when they first
18 get going.

19 To bring it down to an anecdotal level, I think
20 this is a great example of how just a few encounters can
21 shatter and change a person's life. I have a -- my late
22 first wife's cousin, and I'm not going to say her name, I'm
23 going to keep her confidentiality, but you would know her if
24 I said her name. Her and her daughter told me about an
25 incident. I was giving a workshop on racism in Rapid City

1 over the loud speaker that goes over the whole store, "Would
2 somebody come back here to layaway because I've got a stupid
3 Indian who wants her money back and doesn't understand you
4 can't get your money back." You know, and this is going
5 around the whole store, and she said that she was so ashamed
6 that she just walked out of the store with her granddaughter
7 and she looked down at her granddaughter and she said she had
8 the same look on her face that she had. So these are the
9 kind of things that we carry forward, the experiences that
10 minorities have that are oftentimes out of sight, but are
11 very common.

12 And, you know, this of course creates long-term
13 psycho-emotional damage to those who often endure it
14 frequently. These kinds of incidents are important to be
15 conscious of, in large part because of their cumulative
16 effect and impact upon racial minorities who experience such
17 incidents. And I've got just a few more paragraphs here, but
18 social psychologist Dacher Keltner has a new book out called
19 *The Power Paradox*, and in there he states, "That one of the
20 greatest threats to America is the psychology of
21 powerlessness. How does powerlessness resulting from
22 poverty, inequality, racism, gender bias get under our skin?
23 Economic inequality within cities, counties, states, and
24 nations leads to a lack of trust, impulsive behavior, a
25 diminished sense of community, poor health, depression,

1 anxiety, and violence. The costs of powerlessness, which are
 2 so often the result of others succumbing to the power
 3 paradox, are profound. Powerlessness amplifies the
 4 individual's sensitivity to threat; it hyperactivates the
 5 stress response and the hormone cortisol; and it damages the
 6 brain. These effects compromise our ability to reason, to
 7 engage in the world, and to feel good and hopeful about our
 8 future. Powerlessness, I believe, is the greatest threat
 9 outside of climate change facing our society today."

10 So you know, in conclusion, society bears the
 11 cost of unconscious racism and it's ill effects on minorities
 12 and immigrants every single day, but in an exponentially
 13 expensive and unconstructive way, and a tremendous
 14 socioeconomic cost to our country. Our county, state and
 15 federal jails and prisons are bursting at the seams, and
 16 seemingly intractable tensions with law enforcement and the
 17 judicial system are at a dangerous peak.

18 Much of our paralysis has to do with the way our
 19 system blots out the connection between the conditions of
 20 minorities and how they are treated by members of the
 21 majority and majority dominated institutions. If we can
 22 acknowledge the interconnection, it is much easier to locate
 23 solutions. We have, for too long, ignored both overt and
 24 subtle unconscious racism in all its forms. By restoration
 25 or the improvement of civil rights for minorities and ending

1 progressively engaged in an effort to understand how they can
 2 better the relationships we're talking about, as well as
 3 their own relationship with minority communities here in
 4 Aberdeen, and to hear a little bit more about that, as well
 5 as the specifics of their body-worn camera program, I
 6 introduce Chief Dave McNeil.

7 CHIEF DAVE McNEIL: Thank you. Thank you,
 8 everyone. Thank you, Mr. Braunstein. Thank you, Mayor.
 9 Thank you, council and commission, and thank you for the
 10 assistants that have facilitated this.

11 I am Dave McNeil, the chief of police here with
 12 the Aberdeen Police Department and I am blessed with being
 13 entrusted with the service and protection of the City of
 14 Aberdeen, and with great power comes great responsibility and
 15 we understand that. We have a pretty important mission in
 16 Aberdeen, and we're blessed with the city council, city
 17 manager, Mr. Lander, and commission that can give us the best
 18 resources. We can have the best equipment, the best
 19 body-worn cameras. We have the best patrol vehicles. So
 20 we're blessed, but as we all know, without finding good
 21 people, having good policies, having a good culture and an
 22 organization and having good training, you're nowhere and
 23 your mission is going to fail.

24 So I want to talk a little bit today about how we
 25 find the right people to be police officers in the City of

1 unconstitutional racism and racial discrimination in our core
 2 institutions, this society has the ability to head off
 3 another destructive phase in our nation's history -- one that
 4 is unnecessary if we place civil rights enforcement at the
 5 forefront and if we continue to have the good citizens and
 6 officials we have here today interested in solutions and
 7 willing to work together until we find them. Thank you.

8 DR. BRAUNSTEIN: Thank you, Charlie. I
 9 appreciate those preparatory comments from Mayor Levsen and
 10 Charlie Abourezk.

11 We're going to begin our briefing session today
 12 with Chief Dave McNeil from the Aberdeen Police Department,
 13 but before I introduce him and turn it over to him, I wanted
 14 to just reflect very briefly on something that Charlie said.
 15 I just read last week that suicide rates are on the rise for
 16 the at-risk communities both in the majority community and in
 17 the minority community that Charlie mentioned today. So he
 18 said at one point that minorities perhaps have more in common
 19 with lower socioeconomic classes of the majority racial group
 20 or the white community, and unfortunately one of the things
 21 that they have in common together is increasingly high
 22 suicide rates. The costs of these interactions are huge, and
 23 so I just wanted to share that. I appreciate you opening our
 24 eyes to some of the subtleties of this issue.

25 I know that the Aberdeen Police Department is

1 Aberdeen, the people that serve and protect you. We're going
 2 to talk about that in just a little bit, and then we're going
 3 to talk about the policies and practices and training that we
 4 implement to ensure that we're being as professional as we
 5 can and how we perform the mission. And then we're going to
 6 talk about the camera itself and community policing. You
 7 know, a body-worn camera does a lot. I've been involved with
 8 solving a lot of problems over the years being a police
 9 officer, and the most important part and process in solving a
 10 problem is getting to the facts, having facts everybody can
 11 understand. You know, not, you know, an opinion or spin or
 12 anything like that, but starting with the facts, and that's
 13 probably such a profound thing with the body-worn cameras
 14 that we're using them correctly and we're reporting our
 15 encounters, and if there's a problem or we need to go to
 16 court or there's a situation and we can go to those facts and
 17 we can start to look at the problem from there.

18 The body-worn camera system doesn't have
 19 compassion. It doesn't -- you know, it's not biased or in
 20 favor of any particular situation, but again, it starts and
 21 it records those facts.

22 You know, I consider myself a new person but I've
 23 been here 25 years, so I started in policing, and many of my
 24 colleagues that will talk today, the Internet wasn't
 25 invented, the smartphone wasn't invented, so technology can

1 really make things, enhance our life, really improve our
2 mission, but it can complicate it and make it more difficult
3 too.

4 So again, the emphasis I want to start with, and
5 it might be a little elementary, but how we find the right
6 people to be police officers to serve and protect you and
7 ultimately fulfill our mission and you know, being an
8 ethical, professional police department.

9 With that, Sergeant Bisbee is in charge of our
10 training program and he's going to explain to you, you know,
11 how we find the right people. He's going to talk about our
12 hiring and training, and then we'll talk a little bit about
13 the body-worn camera as we go along here.

14 SERGEANT BISBEE: Thank you, Chief. I'm Tony
15 Bisbee. I'm the administrative sergeant for the Aberdeen
16 Police Department here. My root of my job is basically
17 hiring and training, and then from there, a number of other
18 responsibilities that I have a hand in.

19 Finding the right people is a big deal, and then
20 once you find them, getting them into a position where
21 they're able to take a call on their own is a process, and so
22 I'm going to kind of run through, you know, the beginning to
23 the end of how we find a guy and we get him out on the road
24 taking calls on his own and what we have to put into that raw
25 piece of resource to get it to be a police officer who's

1 They'll advertise. They reach out to us and say we have all
2 these young people, we educate them, we want them to come
3 work for you, please come to our job fair and talk to them
4 about what it would be like to work for the Aberdeen Police
5 Department. So we go out to them. We put our game face on
6 and we say, hey, I think you'd make a great addition to the
7 Aberdeen Police Department. We talk to these kids. We
8 inform them what we do here, you know, why it would be a good
9 idea. We rely on our equipment. I actually bring the Taser
10 AXON camera with me and I have it laying on the table and
11 they can pick it up and they can put it on. I have a little
12 display, they can see that the -- you know, they look around
13 the room, they see the people they're looking at. So it's
14 another technology piece that I use to promote our agency.
15 You know, I show them pictures of our weight room. I show
16 them pictures of our police cars, and I talk about the ways
17 they can help people, and different things have different
18 appeal to different people, and so all those little pieces
19 reach different people in different ways.

20 We also go out to the colleges and tech schools.
21 A lot of the job fairs get us there anyway, but the
22 Alexandria Technical College, they have a job fair every
23 year. We go to that. Northern State right here in town, we
24 work with them on a number of different levels. It's a great
25 relationship. We'll go and give talks to their students.

1 serving our community here in Aberdeen.

2 So the very first thing we do is we've got to
3 talk about the minimum requirements, and these are set by the
4 law enforcement training commission here in the state and
5 then also the City of Aberdeen. So things that we have to
6 have, they have to be a citizen of the United States. They
7 have to be 21 years old. They have to have either graduated
8 from an accredited high school or have the equivalent of a
9 GED. Also, they cannot have used any drugs, controlled drugs
10 or prescription drugs unlawfully within the last year prior
11 to making the application to the state to become a police
12 officer. So if they answer on their application, "Yeah, I
13 did that," they have to wait and then apply, you know, once
14 they've let that time go by.

15 They also have to be of good moral character.
16 That's a little bit subjective, and we research that to make
17 sure that we feel like they're of good moral character, and
18 then lastly, they've got to have a valid driver's license in
19 order to drive the car. So those are pretty minimal
20 requirements. Most agencies within the state don't require a
21 four-year degree. They like education. A lot of times that
22 will lead into some preference when it comes to hiring, but
23 as far as a minimum requirement, it's not required.

24 So how do we find these people? We look all over
25 the place. We start with job fairs. Job fairs come to us.

1 Their students will come here, do ride-alongs with our
2 officers. Oftentimes they will do internships. We've had
3 several internships that have started a relationship that led
4 to a student applying and having a job here in Aberdeen when
5 they got out of college, so that's a good relationship for
6 us.

7 Lake Area Technical College has recently started
8 a law enforcement program there where the students actually
9 get skills by going through that. They end up with a
10 four-year degree and have gone to a skills program which
11 saves them some time when they get hired as a police officer.
12 They don't necessarily have to go to the academy if they test
13 out of that.

14 University of South Dakota, they've invited us to
15 job fairs. We've done internships with the Aberdeen area
16 high schoolers. That's really fun because you -- I mean, you
17 get to influence a kid before he really knows any better. So
18 that's a good time for us. They come in and learn a lot.
19 They quietly watch the officers do their job and they make
20 their own decisions on what they want to do with their life.

21 Other things we do, just before we're going to
22 test, we send out a mass advertisement. We send it to the
23 colleges, tech schools, newspapers. The city has a website,
24 we'll post that opening on the website, and we also have a
25 Facebook page that is gaining popularity every day and so we

1 can touch a lot of people when we have an opening.
 2 So as we move into -- you know, we've advertised
 3 an opening. We say we have a test date. Now what we need
 4 from the applicant is we need them to put in an application
 5 and it's a lengthy form. They're giving up a lot of details
 6 about their life because when we want to hire a police
 7 officer, we want to know a lot about them and we're going to
 8 research that and make sure that what they're telling us
 9 matches up with who the rest of the world thinks they are as
 10 well. So we accept applications all year long. Anybody that
 11 puts in an application with us on file, once the testing date
 12 arrives, we'll reach out to them and say, okay, we have an
 13 opening now, the test is going to be on this day and so
 14 they -- they're kind of VIPs, we reach out to them and
 15 instead of them having to come to us.

16 The written exam, we test in four general
 17 categories. You don't really have to know what it takes to
 18 be a police officer to take our written exam. We're testing
 19 for very basic things, like mathematics, reading
 20 comprehension, grammar, incident report writing. We want
 21 people that are intelligent and then we feel like we can
 22 teach them the rest.

23 Then those that pass the written exam are
 24 eligible to move onto an interview. The interview is
 25 generally a panel style interview. It's made up of members

1 of the Aberdeen Police Department. There will be four to six
 2 people in the panel, and then we generally try to get one or
 3 two community members and we'll use different groups within
 4 the community that we'll pull from and say, hey, you know,
 5 you guys deal with police officers, why don't you come sit on
 6 our panel and tell us who you think would be a good person
 7 for this job. And then the applicants are subjectively
 8 scored on that interview as well.

9 So now they've made it through the application,
 10 they made it through the testing, they survived the interview
 11 and now they make it to -- they're into the background
 12 examination. This is really where we dig into their lives.
 13 Anything they put on that application we're going to check
 14 out and verify. From there we're going to ask them, hey, who
 15 else does he know, who else are his friends, how many -- you
 16 know, who's his ex-girlfriend, we're going to go talk to
 17 those people too. And so we're going to really dig into the
 18 background of our new applicant.

19 We run driver's history checks, criminal history.
 20 If he lived out in Washington or something, we will contact
 21 the police departments out there to see what they know about
 22 you. All references and additional acquaintances that you
 23 put on your application we're going to talk to, and we're
 24 going to also talk to all your former employers to see what
 25 kind of an employee you are. We're really going to do our

1 homework on you at this point because we're getting closer to
 2 offering that person a job.

3 Now the investigator that's assigned to do the
 4 background examination, he's going to spend a lot of time on
 5 this. This is not something that happens overnight. This is
 6 a couple weeks to a month long deal when we initiate a
 7 background, so he's going to put that all together in a
 8 summary and he's going to provide it to the administration.

9 DR. BRAUNSTEIN: Sergeant, may I interrupt?

10 SERGEANT BISBEE: Yes, sir.

11 DR. BRAUNSTEIN: Just in the interest of time,
 12 can you relate this discussion to the questions that are
 13 before the committee today which include, you know, what, if
 14 any, strategies in the hiring process Aberdeen police use to
 15 overcome perceived or actual forms of racism in the
 16 community? Do you have special hiring incentives or outreach
 17 efforts? You know, we are interested in this, but we have a
 18 full agenda and so I guess I would like to get to the crux of
 19 the question. How does the hiring process relate to the
 20 subtle forms of racism in the community?

21 SERGEANT BISBEE: Well, I think it all goes back
 22 to the process itself. We're looking for good people and
 23 provide them with good training and that's what I'm -- I was
 24 asked to establish that background. So it all relates to the
 25 bigger picture, the bigger question, and I can speed through

1 this a little bit more so you guys can get back to that
 2 discussion.

3 CAPTAIN McNEIL: And if I can just speak, right
 4 here is probably the most important process as we're talking
 5 about what relates to our discussion today is a background
 6 examination. Again, finding the right people, people that
 7 you would trust, you know, with your worst problem, your
 8 worst situation, the worst moment of your life, people that
 9 are going to treat you fairly, you know, properly, and treat
 10 you with respect, and the background investigation, we can't
 11 overemphasize is the most important piece behind that. So
 12 thank you for speeding us up here.

13 Where we're going is that, you know, the person
 14 who we hire for the Aberdeen Police Department is the most
 15 important part, in our mind, and ultimately where we're going
 16 to go with this, Tony was going to talk about the extensive
 17 training that it takes to put that officer, you know, by
 18 himself on the street. And there are so many layers of
 19 oversight, so many levels of day-to-day training and
 20 observation to determine if that person has the right
 21 temperament, if that person can withstand criticism and that
 22 person can treat people with an open mind, if that person is
 23 emotionally intelligent enough to handle his own emotions,
 24 his own feelings, life experiences and not allow that to
 25 bleed into treating somebody, you know, in a biased way.

1 DR. BRAUNSTEIN: Absolutely. So we'll call that
 2 generally emotional intelligence.
 3 CAPTAIN McNEIL: Yes, absolutely.
 4 DR. BRAUNSTEIN: You know, there's a technical
 5 term that relates to the ability to regulate your behavior
 6 and the behavior of others while keeping focussed on a
 7 mission like public safety.
 8 CAPTAIN McNEIL: Correct.
 9 DR. BRAUNSTEIN: And so I also was interested to
 10 know -- and I'm sure others are -- about the engagement of
 11 the committee on those interview panels. Now you said you
 12 choose community leaders or people. Okay, so realizing that
 13 there's some tensions in the way -- and we can just accept
 14 this as a given and it's certainly not the fault or the cause
 15 of the Aberdeen Police Department, but Charlie Abourezk
 16 mentioned that these are pervasive elements of the
 17 subconscious psyche of our community at-large, not just
 18 Aberdeen, right. Are those citizen panels reaching out to
 19 members that are at risk for subtle forms of discrimination
 20 like the Native or immigrant communities here in Aberdeen?
 21 Are there efforts to do that, to reach out across these lines
 22 or concerns?
 23 SERGEANT BISBEE: A lot of times the folks we'll
 24 reach out to represent those groups or work with those groups
 25 on a certain level. You know, specifically like, Safe

1 Harbor, is that the --
 2 CAPTAIN McNEIL: Yeah, the one at the resource
 3 center with Gina Karst.
 4 SERGEANT BISBEE: Gina, okay. So Safe Harbor,
 5 we've had them come in quite a few times. You know, they
 6 deal on a different level with different groups, you know,
 7 different minorities just because of the work they do, and so
 8 she's a great voice for us when we're looking for police
 9 officers, but yeah, we reach out to different ones at
 10 different times, and we like that. That's good for us.
 11 DR. BRAUNSTEIN: And I think we all appreciate
 12 the effort of the police department to try to assess what
 13 kind of person, to use your words, would we want to entrust
 14 to deal with our worst moments in our life. I think we can
 15 stipulate to the fact without hearing the full presentation
 16 that the training is rigorous around that, right?
 17 CAPTAIN McNEIL: Yes.
 18 DR. BRAUNSTEIN: And in the interest of time,
 19 we'd really like to speed ahead to the question of the
 20 body-worn camera. And I'd ask the same question of the
 21 presenters from the Aberdeen Police Department, how do those
 22 programs relate to the questions of subtle racism, where at
 23 all, and you've answered it expertly here in terms of
 24 recruitment and hiring.
 25 CAPTAIN McNEIL: Okay, good. Thank you.

1 DR. BRAUNSTEIN: So I apologize for urging you
 2 forward.
 3 CAPTAIN McNEIL: No, I appreciate it.
 4 DR. BRAUNSTEIN: But we do have a full agenda.
 5 CAPTAIN McNEIL: And you know, we were laboring
 6 to the point that we take pride in our people.
 7 DR. BRAUNSTEIN: Yes.
 8 CAPTAIN McNEIL: You know, the people that we put
 9 the uniform on are so important. Again, those are the people
 10 that are going to come and help you. So we want to emphasize
 11 to the point, you know, where -- you know, this is a
 12 situation where not everybody gets to be a police officer,
 13 you know, and they have to go through extensive training and
 14 this background process to be that person that's going to
 15 help you in your worst time. So thank you.
 16 Tony, do you want to bring up my presentation
 17 with the policy part?
 18 SERGEANT BISBEE: Sure.
 19 CAPTAIN McNEIL: So the next thing we're going to
 20 talk about quickly here is policy. So we've established that
 21 you have to have the right people wearing the uniform to
 22 perform the mission, but when you hire somebody, you have to
 23 explain, you know, the applicable laws, you have to explain
 24 the rules, you have to explain policies and procedures. In
 25 South Dakota we're blessed with a lot of resources, and the

1 South Dakota Public Assurance Alliance has hired an attorney
 2 that puts together policies and training and does research
 3 for us based on supreme court cases and the things that are
 4 happening in our circuit court. And one important piece
 5 here, a very important policy that relates to what we're
 6 talking about on the council today is biased based policing,
 7 and we're going to talk about that real quick. He has a
 8 companion video that I think will illustrate the use of a
 9 body-worn camera, and I'm going to interject here a little
 10 bit as he starts to talk, and this isn't a very long clip,
 11 but it really speaks to what we're talking about.
 12 DR. BRAUNSTEIN: Again, I apologize for seeming
 13 disinterested.
 14 CAPTAIN McNEIL: No. Thank you.
 15 DR. BRAUNSTEIN: We're just -- we want to make
 16 sure everybody can --
 17 CAPTAIN McNEIL: I totally understand.
 18 DR. BRAUNSTEIN: -- offer testimony today, so
 19 thank you for your flexibility.
 20 CAPTAIN McNEIL: Yep.
 21 (Video was played.)
 22 CAPTAIN McNEIL: So Jack Ryan provides us a great
 23 policy and it's on us to reinforce this policy on a daily
 24 basis. It's upon us to be able to train our troops and
 25 understand that. One of the huge benefits of a body-worn

1 camera system are being able to have the oversight that Jack
2 is talking about here, to view how our traffic stops are
3 occurring, how they're unfolding, are officers saying and
4 doing the right things.

5 One thing that he talked about here that is
6 pretty profound is the officers need to explain themselves in
7 why they're doing something. Over the years, resolving many,
8 many complaints, it seems like many of the minor complaints
9 have come to this very issue where the officer hasn't done a
10 very good job of explaining themselves or why they're doing a
11 particular thing, and so immediately as the officers started
12 to wear the cameras, I saw some officers maybe that struggled
13 a little bit with explaining themselves or being more
14 communicative or more understanding or taking an extra
15 minute. They knew that they were wearing the camera and
16 there was a higher level of expectation in their performance
17 and behavior and they started to do a better job doing
18 exactly what Jack's talking about here on those encounters,
19 explaining what they're doing and why they're doing it.

20 Now sometimes two people aren't going to agree,
21 and the beauty of the body-worn camera system is when we have
22 complaints and somebody thinks that they are treated
23 unfairly, we invite them to come to the police department and
24 if it's a minor particular issue, we can sit down with the
25 individual and look at the facts and see how the officer

1 of you and the sergeant at this point --

2 CAPTAIN McNEIL: Sure.

3 DR. BRAUNSTEIN: -- in regard to anything you
4 might have said so far. So are there any questions among
5 committee members?

6 MAYOR LEVSEN: Chief, I think one thing to do
7 would be to maybe go into a little more detail about what
8 happens if you review a new officer and you see on the video
9 he did something that you didn't want him or her to do, what
10 happens? How does this work in an actual one-on-one or
11 training situation?

12 CAPTAIN McNEIL: Okay. Great question. Tony, do
13 you want to talk about the field training and how you would
14 adjust?

15 SERGEANT BISBEE: Sure.

16 CAPTAIN McNEIL: And then I'll talk about the
17 larger disciplinary process.

18 SERGEANT BISBEE: So part of that earlier
19 presentation we would have got to hear too is that every
20 officer that we hire spends time in a six-week classroom
21 setting, so we're giving them as much as information as we
22 can as quick as we can, and we want to educate them to the
23 point where we can put them in a patrol car. Now when we put
24 them out in a patrol car, they are with an experienced
25 officer. That experience can range from two years to

1 performed, see and draw out and point out to the person, you
2 know, why they were particularly stopped, why the officer
3 asked certain questions, but that, as we saw here, is a huge
4 benefit of the body-worn camera system and the oversight and
5 supervision we can provide, and ultimately not everybody does
6 and says -- I mean, officers make mistakes. We're human, we
7 make a lot of mistakes. So the benefits of showing an
8 officer how they could have done something different, how
9 they could have talked to somebody a little bit better, how
10 they could have explained something a little bit better, you
11 know, that has huge, tremendous benefit in showing them
12 exactly what they did. And again, policy and training and
13 practice are pretty important in developing a culture in an
14 organization that doesn't, you know, conduct bias based
15 policing.

16 So with that now, Rich, would you like a
17 demonstration of the camera itself because there's so many
18 different body-worn point of view cameras. Captain Tobin was
19 going to explain the camera system itself, and we have a
20 couple videos so...

21 DR. BRAUNSTEIN: I think that in the interest of
22 time, we're going to forgo that for today.

23 CAPTAIN McNEIL: Okay.

24 DR. BRAUNSTEIN: But I would like to offer our
25 committee members an opportunity to ask follow-up questions

1 fifteen years. Those are our field training officers. And
2 so at that time they get their camera, so every interaction
3 they have is recorded. So that gives us two advantages. The
4 FTO and the recruit can go back at the end of the day, look
5 at some of his interactions with the citizens he's serving
6 and saying, boy, maybe we could have done a little better
7 here. If that complaint should come in, we can look at it,
8 either sit down with the officer. There are a number of
9 different things we can do with an officer if he stepped out
10 of bounds. If it's a minor infraction of maybe the policy
11 said this, he did this and he wasn't quite in line with it,
12 it might require some coaching and maybe some remedial
13 training. Really minor stuff, we get him back in the game.

14 If it is something where we are way out of bounds
15 and we need to move into a realm of discipline, and that can
16 range all the way from a letter in your file to termination,
17 so the cameras help administration and administrative efforts
18 do a better job of making sure we get to the facts behind any
19 complaints or things like that, and sometimes complaints are
20 more of a perception issue. When we look at it, and we go
21 there's really nothing here, and then we're able to, like the
22 chief said, bring that person or communicate with that person
23 and say we reviewed it and I know you're unhappy with it, but
24 it's not as bad as it looks.

25 DR. BRAUNSTEIN: Would you say that the response

1 of officers in that apprenticeship mode, right, that early
2 stage where they're getting that feedback are -- or maybe
3 even in general, folks that have been on the force longer,
4 are open to that feedback, or do you find it to be
5 adversarial --

6 SERGEANT BISBEE: Yeah, they really have to be.

7 DR. BRAUNSTEIN: So it could be an adversarial
8 process that they have to participate in because their job is
9 on the line, or it could be a collaborative process that
10 there's kind of a humble acceptance of this is valuable.

11 What's your experience with -- or does it depend, I guess?

12 SERGEANT BISBEE: Well, and before we put them in
13 that situation, we tell them, hey, every day you're going to
14 get a DOR. It's a daily observation report, and your field
15 training officer is going to tell you what he thinks you did
16 well, he's also going to tell you what he thinks you did not
17 do well, and that sheet has 31 categories, and on that 31
18 categories, they're all job task related things. So you
19 know, if it doesn't have to do with police work, it's not
20 really on the sheet, but some of those things are, you know,
21 how do we get along with other department members, how do we
22 get along with members of other cultures. You know, so those
23 are tasks that are on that sheet and are rated on a daily
24 basis. So we get a chance for 14 weeks to see that officer,
25 how he responds to other members of other cultures, other

1 the FTO says you did a poor job, we don't really need to look
2 at the video to establish that, so...

3 DR. BRAUNSTEIN: And then move on.

4 SERGEANT BISBEE: But if there's something we can
5 learn from it, it's always there as a resource.

6 DR. BRAUNSTEIN: Thank you.

7 SERGEANT BISBEE: So the cameras really do touch
8 a lot -- about every piece of police work.

9 DR. BRAUNSTEIN: Yes, Gay.

10 MS. KINGMAN: My question is, when you do your
11 recruiting, I would recommend if you haven't, I didn't see it
12 listed, but our Indian colleges. Many of them have graduates
13 in law enforcement and it would assist, you know, if you
14 could recruit from them, you might get some more
15 diversified --

16 SERGEANT BISBEE: Sure.

17 CAPTAIN McNEIL: Good suggestion.

18 SERGEANT BISBEE: Absolutely.

19 MS. KINGMAN: United Tribes Technical College has
20 law enforcement graduates as does Oglala Lakota College, and
21 so that would be a suggestion. And then do you -- how many
22 minorities now do you have on your police force?

23 CAPTAIN McNEIL: Well, South Dakota, the
24 Department of Criminal Investigation every year does a
25 management study and they break it out by gender. So we're

1 races, and then we are going to rate him based on definitions
2 that are established throughout the United States.

3 DR. BRAUNSTEIN: And in discussing that, do you
4 use the camera data to support those conversations, or are
5 these all based on the impressions of the training officer on
6 a kind of one-to-one basis without the video data?

7 SERGEANT BISBEE: Yeah, for the most part in the
8 interest of time, if the FTO says it and the recruit accepts
9 it, they're probably not going to look back. But if there's
10 a debate, if he says I don't think you treated this guy very
11 well, and the recruit says, no, I really did. Now they can
12 go back to that video and they can watch it together and now
13 we can have more of a consensus, or maybe we still differ in
14 opinions, then they come to me, and now we can discuss it now
15 with a third party.

16 DR. BRAUNSTEIN: Right. The supplemental form,
17 the body-worn camera data is a supplemental form to advance
18 these conversations, but early on, they're not, I mean for
19 the interest of time, right?

20 SERGEANT BISBEE: Right, right.

21 DR. BRAUNSTEIN: They're not necessary -- you
22 don't always do it.

23 SERGEANT BISBEE: Yep, so they're there, they're
24 always recording and they're there if we need it. But if
25 they agree, if the recruit says yeah, I did a poor job and

1 one of the leading agencies in the state that hire females,
2 so I think -- how many female officers do we have on our 54
3 sworn --

4 SERGEANT BISBEE: Six.

5 CAPTAIN McNEIL: Six. So we're doing a good job
6 in regards to gender. We have a Native American officer. We
7 have an African American officer. Tony and I, I'm not sure,
8 I think he's German, I'm Irish. I'm not sure what we are,
9 but I think we're doing a pretty good job, and the management
10 study showed that, you know, gender and -- and you want to
11 hire people that represent the community. And really, some
12 of the community outreach things that Officer Theroux will
13 talk about later in trying to work with our refugee and
14 immigrant communities, we would -- you know, I've seen where
15 other agencies in Minnesota, perhaps, have hired officers
16 that are Somali and officers that are Karen. We had one
17 officer, or a gentleman from one of the places that had
18 contacted us, was interested in being a police officer, so
19 we're always looking for people that are willing. I mean, as
20 long as they meet our essential criteria, you know, we want
21 to hire people, a diverse group to represent our community,
22 so...

23 MS. KINGMAN: And then you mentioned the training
24 part. Do you have any questions related to bias racism in
25 your training?

1 SERGEANT BISBEE: We have training pieces on it,
 2 yeah. As in test questions, is that what you're asking?
 3 MS. KINGMAN: Well, in your training in general.
 4 SERGEANT BISBEE: Yeah, yeah, there's an ethics
 5 portion that would touch on it. Again, on the 31 criteria
 6 that they're rated on a daily basis, it defines for them what
 7 an acceptable encounter would be, you know, what is
 8 considered acceptable. So training does hit that throughout
 9 their -- you know, the six weeks of in-house, 14 weeks of
 10 field training, and then on top of that, they spend 14 weeks
 11 at the academy through the state, so within the --
 12 DR. BRAUNSTEIN: But that's before they come for
 13 the first six weeks here, right?
 14 SERGEANT BISBEE: No, that can occur any time
 15 within the first year of their employment.
 16 DR. BRAUNSTEIN: Okay. Thank you.
 17 SERGEANT BISBEE: So before they are able to go
 18 out and handle one call on their very own, you know, they
 19 have to have experienced 20 weeks of training with us. Now
 20 within the first year, they have to have another 14 on top of
 21 that, so we're looking at 34 weeks, which works out to about
 22 1360 hours of training that we put into our brand-new police
 23 officer before his first year is up with the Aberdeen Police
 24 Department.
 25 MS. BLISS: Or her.

1 CAPTAIN McNEIL: Yeah, you're absolutely right.
 2 DR. BRAUNSTEIN: Are we going to hear from
 3 Officer Theroux now?
 4 CAPTAIN McNEIL: Well, so here's what I have
 5 next. I was going to have our state's attorney, Chris White,
 6 talk a little bit about its utility in his -- you know, on
 7 evidence and courtroom proceedings and different things. He
 8 would probably have some very valuable things to say, but
 9 would you like to hear what Chris would have so say?
 10 MR. WHITE: Mr. Chair, I'm scheduled too in the
 11 state law enforcement panel. I can hit on that at that
 12 point.
 13 DR. BRAUNSTEIN: Yeah, I think we'll wait for
 14 that.
 15 CAPTAIN McNEIL: Okay.
 16 DR. BRAUNSTEIN: That would be fantastic. I
 17 appreciate that.
 18 CAPTAIN McNEIL: Okay. So one of the most
 19 important things then that we were going to move to, and one
 20 of the major uses of the body-worn camera system is how we
 21 use that to make sure that when we respond resistance and use
 22 force, how we maintain our professional standards, how we
 23 know that we're applying the law fairly and we're doing the
 24 right thing, so we have a piece that we're going to talk
 25 about on the department's responsibilities, policies, and

1 CAPTAIN McNEIL: Yeah, that's right. Thank you.
 2 DR. BRAUNSTEIN: Melanie, do you have a question?
 3 MS. BLISS: It seems to me, I mean you're saying
 4 you don't want to be a biased based program.
 5 CAPTAIN McNEIL: That's correct.
 6 MS. BLISS: And so you're emphasizing the fact
 7 that you are bias based if you're trying to get out of that.
 8 You need some more positive language instead of two sets of,
 9 you know --
 10 CAPTAIN McNEIL: You're right, it's just -- you
 11 know, that's, you know, kind of our upbringing, just, you
 12 know, how we even talk in the subtlety and the words that we
 13 use, you know, so you're absolutely right.
 14 MS. BLISS: Yeah, but that would be a good idea
 15 to change that.
 16 CAPTAIN McNEIL: You're right.
 17 MS. BLISS: Simple.
 18 CAPTAIN McNEIL: Yeah. Thank you.
 19 MR. GERMAN: Mr. Chairman, I'd actually made the
 20 same observation. Every time you've talked about an officer,
 21 you'd say he, him, he. Ten percent of your workforce is
 22 female. Clearly it should be they.
 23 CAPTAIN McNEIL: You're right.
 24 MR. GERMAN: Subtle forms. Yes, sir? Subtle
 25 forms.

1 we're going to show some videos that talk a little bit about
 2 that, if you would like to hear about that.
 3 DR. BRAUNSTEIN: We would.
 4 CAPTAIN McNEIL: Okay. So with that, Tony, do
 5 you want to start your presentation on the response
 6 resistance, please?
 7 I would like to say as he's preparing this, you
 8 made a very good statement about people having power, and as
 9 you were talking in your statement, it dawned on me that the
 10 body-worn camera system allows people to have their power.
 11 If I'm not looking through things, through the lens of a
 12 citizen, I'm just looking at it through -- or through the
 13 lens of a police officer, I'm looking at it through the lens
 14 of a citizen. If that officer who is wearing the body-worn
 15 camera is before me, there's my power, my ability to address
 16 the police department, city government, the state's attorney
 17 on what actually happened. So in essence, you know, to kind
 18 of talk about what you're talking about, people that are
 19 powerless, this is a tool that gives people back the power,
 20 and pretty important, and Tony will talk about that, so...
 21 SERGEANT BISBEE: So again, the chief asked me to
 22 kind of touch briefly on our response resistance review
 23 process. Any time we use force, it initiates a process where
 24 we're going to check and make sure that we're using the
 25 appropriate amounts of force for the right reasons, so

1 there's a few different reasons that we're going to use
2 force. It can range from effecting arrest, preventing
3 escape, and self-defense of us or another person, protection
4 of property, executing warrants and conducting Terry stops or
5 reasonable suspicion stops.

6 Things that drive us and guide us on that is,
7 first of all, the constitution, court rulings, state law, and
8 our own policy. And we recognize as a department several
9 different force options, broadly they're grand presence,
10 that's just the officer showing up, verbal commands, soft
11 empty hand control, that's basically just us touching them
12 for any reason, and then chemical spray, electronic control
13 devices, hard empty hand control and impact weapons and
14 deadly force.

15 Right around here is when our use of force review
16 is triggered. So if an officer has to do really any more
17 than normal handcuffing, that initiates this response. He
18 has to report that to his supervisor. So officers are
19 directed to report to the supervisor that response or that
20 force that they used. The supervisor reviews it. He
21 generates what's called an RCAR, which is a report control
22 active resistance, and that report tells us the actions of
23 the subject, the reasons why we used force, any injuries to
24 the officer or the person we used force against. It's really
25 a fact-finding thing.

1 Once completed, that report's forwarded through
2 the chain of command for review by me, the internal affairs
3 and the chief of police. What we're reviewing it against,
4 we're reviewing it against the officer's videos, we look at
5 the review of the written reports and we check that for any
6 applicable laws or policies that may have been touched or
7 violated here. At each stage, we write notes, and then it
8 goes onto the next person in that chain for their review.

9 If a problem is identified with any particular
10 use of force, several remedies that we kind of touched on
11 earlier can be utilized. We can do remedial training. We
12 can review the policy itself, maybe the policy is flawed, or
13 there's coaching or discipline.

14 Something else that we do and encourage the
15 supervisors on patrol to do is randomly review officers'
16 videos, specifically traffic stops. We'll do a traffic stop
17 review to make sure that, you know, they're doing it safely,
18 making good stops, things like that. And it also provides an
19 opportunity for the sergeants or the supervisors to find and
20 correct problems, and this video will kind of illustrate one
21 of those problems that we're kind of looking for. At the
22 same time, it shows you why we're so happy with having
23 officer cameras on our officers. This one happens to be
24 recorded by the citizen that had to endure this.

25 (Video was played.)

1 SERGEANT BISBEE: So this couple was driving by a
2 crime scene, the officer made some gestures at them and so
3 they pulled over to see what he wanted, and now he's going to
4 come and make contact with them.

5 (Video was played.)

6 CAPTAIN McNEIL: You know this encounter was
7 recorded and the officer did many things wrong here. He lost
8 control of himself. There are many things here that
9 happened. Now if you were the citizen involved in this and
10 this encounter wasn't recorded and you went in to make a
11 complaint about the officer's behavior, do you think that
12 your true voice, the true situation would be captured, your
13 voice would be heard if you're making a complaint? The
14 video's profound when it shows exactly what happened and how
15 the person stated something, the interaction, all the things
16 that happened.

17 Now do you think this might have been this
18 officer's first time in losing his temper? I don't think
19 either.

20 What's interesting to me in my research is
21 according to the Department of Justice in 1981, the U.S.
22 Commission of Civil Rights recommended that all police
23 departments create early warning systems, also known as early
24 intervention systems, to identify officers who are at risk or
25 who may pose risk to others. Although the main motivation

1 was to protect the public, these systems also protect
2 officer's well-being by addressing the underlying causes of
3 misconduct, such as stress, family and financial issues.

4 So you know, from 1981, agencies have done a good
5 job adopting early warning systems and we have that policy in
6 our police department. But the reason the body-worn camera
7 is so profound is that I can take the camera and I don't have
8 to -- you know, when people make mistakes, sometimes they
9 minimize their mistakes. I can clearly see what happened
10 here and now I can apply our training, our policy, our code
11 of conduct standards to that situation and we can make
12 decisions from there. So it's pretty profound on how this
13 really enhances the early warning system that you, your
14 commission, talked about in 1981 that we've adopted, but we
15 can also see this in a factual basis. So go ahead.

16 SERGEANT BISBEE: So I have one more video and
17 then I'm done. And this one is going to put -- this is a
18 body-worn camera on an officer. We're going to see things
19 unfold from the first person's perspective basically.

20 What I want you to look for is whether or not the
21 police officer should feel in jeopardy or if he's in control
22 here.

23 (Video was played.)

24 SERGEANT BISBEE: So just like the chief was
25 talking about, if you're the citizen that comes in to make a

1 claim and there's no, you know, there's no video of the
 2 interaction, it's relying on you to be able to really get
 3 your message out there saying this is what happened, and you
 4 know, I know that he's saying this and I'm saying this, you
 5 know, how are we going to find out what really happened?
 6 Same thing goes for the officers, you know, put yourself in
 7 that officer's shoes. I mean, we got a first person look.
 8 Do you think that he was afraid for his life? Did you think
 9 that he thought that person had a firearm? There's no doubt
 10 in my mind he did in watching that, but at the end of the
 11 day, it would have been very hard for him to explain why he
 12 used deadly force against somebody with a cell phone without
 13 the use of that video, okay. That puts it in context a
 14 little bit about how this tool, it works for us two-fold, you
 15 know, it works back and forth. That officer would be very
 16 hard-pressed to explain why we used deadly force against
 17 somebody that didn't have a weapon on them, but when you put
 18 it in context with the way the person was acting, the dancing
 19 around he was doing, saying are you ready, are you ready, and
 20 then he pulls out a black object and points it at the
 21 officer, now can we get there? Can we understand where the
 22 officer is coming from now? So that's why it's a good tool,
 23 and they say a picture is worth a thousand words, the video
 24 is going to be worth its weight in gold in situations like
 25 this. So I appreciate it.

1 DR. BRAUNSTEIN: Yes, sir?
 2 MR. GERMAN: Mr. Chairman, I don't know about
 3 anybody else, but I didn't see a black object and I didn't
 4 see him move anything.
 5 SERGEANT BISBEE: Okay. And to that -- just
 6 before --
 7 MR. GERMAN: I'm not disputing anything that's
 8 said here, but just in that video, I didn't see him making
 9 any aggressive moves, and I certainly didn't see anything in
 10 his hands.
 11 SERGEANT BISBEE: What you do see is the
 12 perception from the video being on -- a lapel worn one.
 13 That's why we've chose to go with the one that we actually
 14 wear on our head; it follows our gaze a little better. What
 15 happens when the officer's hands come up, it blocks the video
 16 view. So right at the crucial moment -- you know, we see all
 17 this stuff happening, and right at the crucial moment the
 18 video view is blocked. You know, reading the back story on
 19 that, you know, that the actual news release on that, that's
 20 what had happened is he came up, pointed towards the officer
 21 and then used deadly force.
 22 MR. GERMAN: Pointed a cell phone.
 23 SERGEANT BISBEE: Perceiving. Perceiving that it
 24 was a weapon.
 25 CAPTAIN McNEIL: That's a good question and you

1 know, Sergeant Bisbee is talking about, you know, different
 2 products out there, and the point of view is important
 3 because, you know, the point of view sits here and wherever
 4 the officer looks, it's grabbing that image, versus right
 5 here and it could be covered up, so very good question.
 6 DR. BRAUNSTEIN: Can I ask a follow-up question
 7 on that?
 8 CAPTAIN McNEIL: Yes, sir.
 9 DR. BRAUNSTEIN: What are the -- and I know I
 10 said I didn't want to -- you know, in the interest of time,
 11 but now we're here so I appreciate having the conversation.
 12 Is there an officer perspective on which one works better? I
 13 understand that the image may be clearer when an officer
 14 raises his hands, but in terms of an officer doing their job,
 15 does the head worn versus lapel worn versus chest, you know,
 16 apparatus, inhibit or advance the job of a police officer
 17 more than other systems?
 18 CAPTAIN McNEIL: Speaking for the officers, I
 19 think that, you know, something that accurately portrays what
 20 they actually saw, you know, that portrays the reason that
 21 they decided to make a stop, the reason that they decided to
 22 make an arrest, they want their side, they want the facts
 23 reflected, they want those accurately portrayed, and some of
 24 the other camera systems, you know, when officers step into
 25 doorways and different things, they cover up the angle of the

1 camera, you know, that, you know, takes away the ability to
 2 have those facts and it leaves open to --
 3 DR. BRAUNSTEIN: Superordinate to interest is for
 4 the facts to be clear.
 5 CAPTAIN McNEIL: Yep.
 6 DR. BRAUNSTEIN: But what about --
 7 CAPTAIN McNEIL: You ask a great question.
 8 DR. BRAUNSTEIN: -- the inhibition of different
 9 systems in terms of officer comfort? Physical comfort?
 10 CAPTAIN McNEIL: Well, you know, officers can
 11 wear them a lot of different ways. They can wear them on a
 12 ball cap. They can wear them mounted on a glass -- a pair of
 13 Oakley glasses that we provide. They can wear a headband.
 14 They can wear them on the side. Our animal control officer
 15 wears the body -- or the chest mounted one. So there's a lot
 16 of different ways you can wear them based on comfort level
 17 and you know, depending the length of your hair and that type
 18 of thing, so there's a lot of different ways you can wear it.
 19 But a great question, kind of going back to what
 20 you talked about. There was a learning phase for us when we
 21 implemented the camera because as you can imagine, when you
 22 tell a police officer, hey, as an administrator, I walk up to
 23 you and I have this thing with wires on it and a camera and I
 24 smile at them and I tell them, hey, you're going to wear this
 25 and it's going to be great. What do you think human nature

1 is as a police officer? They're going to say, gees, chief,
 2 you've already loaded me down with 40 extra pounds of
 3 equipment and now you want me to wear a camera?
 4 So we worked into a phase where two of the
 5 biggest things that you have to make sure that you're doing
 6 with a body-worn camera system is it has to be recording. So
 7 people have to be trained on -- the most important, the best
 8 time to turn a body-worn camera system on is when the officer
 9 is dispatched to that call, when they answer the radio call
 10 to the dispatcher and they put the mike on, they should turn
 11 it on right away, because after that, as you start to drive
 12 to a call, you're formulating a plan, you're receiving
 13 information, your adrenalin is starting to go, so you will
 14 forget to turn the camera on, and if you don't have that
 15 camera on, it can't speak, it can't give you the facts, and
 16 there's -- you know, people can, you know, give their side of
 17 a story and if you don't have those facts, you know, it's
 18 harder to explain that or have transparency.

19 The other part is is that if you don't have it
 20 properly adjusted, if the camera -- we noticed that some
 21 officers had a tendency to want to just put it on their neck
 22 for convenience, because there's a little bit of pressure
 23 there, so they would wear it on their neck and they would get
 24 called and then when they got called, sometimes they'd
 25 remember to turn it on but the camera is facing down because

1 suspect in a position to cause further crime, and then
 2 ultimately, you know, there are a lot of different pieces to
 3 that, that missteps, but that video was profound in the fact
 4 that I could -- we could go to the officer, show those
 5 problems, address it through training, do some coaching and
 6 discipline, and ultimately, you know, ensure that that didn't
 7 happen again, so that's why it's so profound and important,
 8 you know, to have the camera system.

9 One other situation that comes to mind that
 10 really helped our officers and agency is we had a domestic
 11 violence situation where multiple officers went to control a
 12 suspect and the suspect didn't want to comply, he was
 13 intoxicated, and it was a pretty violent struggle, and
 14 officers had to use knee strikes and a Taser on the person,
 15 and the suspect received facial injuries. If I were to show
 16 you a picture of the suspect, you would say, boy, that
 17 suspect looked like he was, you know, violated, he was beaten
 18 up. So the person was very upset and filed a complaint, and
 19 that borders a criminal type violation of policy violations
 20 and criminal violations. So we got ahold of the South Dakota
 21 Department of Criminal Investigation and we gave that videos
 22 to that agency to do the use of force investigation because
 23 if we did truly not apply force properly, officers could have
 24 committed criminal violations, so we gave the videos to the
 25 DCI agent. He looked at the videos. The DCI agent then went

1 they didn't put the headband on. So it's a consistency to
 2 make sure that the camera is adjusted at the right angle and
 3 that they're wearing it in the appropriate way and they don't
 4 get lazy, you know, and at the last minute decide that they
 5 should put the camera on and it's late.

6 Red flags to me as a chief, I can recall one
 7 incident, a use of force incident that we reviewed. There
 8 was a disturbance and the officer located the suspect, and we
 9 review all these videos, and Sergeant Bisbee did a great job
 10 reviewing the video and made comments to me that the officer
 11 needs to be more consistent, he didn't turn his camera on at
 12 times. So what happened is the video shows the encounter.
 13 There was a struggle. The office had a struggle with the
 14 suspect, but the camera didn't get turned on until the
 15 suspect was in handcuffs, and then the second officer arrives
 16 and they try to get the suspect in a car and the suspect was
 17 angry and not compliant, and so the officer goes to one side
 18 of the patrol car and grabs ahold of the person by his hair,
 19 long hair, and pulls him across the back seat of the patrol
 20 car. When he pulled the suspect across the back seat of the
 21 patrol car, the suspect was able to raise his legs and kick
 22 at the other officer. So we committed several different
 23 training violations there; we don't pull people by hair
 24 unless it's a life and death situation. We could have caused
 25 potential injury to that suspect to his neck. We put a

1 to the suspect and showed the exact encounter to the suspect
 2 and how the suspect was acting, and he didn't remember a lot
 3 about it because he was highly intoxicated, but when he saw
 4 his own actions and how he had attacked the officers, how he
 5 kicked at the officers, he immediately withdrew his complaint
 6 and apologized for how he was acting. So I mean, you know,
 7 it works to the citizen's advantage and it works to the
 8 officer's advantage by having those facts, and I think the
 9 expectation in today's society is, hey, you know, we want to
 10 see what exactly happened. We want facts, not necessarily
 11 told through the officer, but we want to see, you know, and I
 12 think that's where we're at in society right now, so...

13 DR. BRAUNSTEIN: Thank you.

14 CAPTAIN McNEIL: Yeah.

15 MS. BLISS: Why would you allow the woman to be
 16 running around in the back of the situation that could be
 17 volatile?

18 CAPTAIN McNEIL: You mean in this particular
 19 situation? Well, in a critical incident there are so many
 20 things that happen, it's profound. You can't imagine, you
 21 know, how profound it is, and to get officers to the level of
 22 controlling situations like this, we put them through months
 23 of training in these type of simulated scenarios to increase
 24 the stress levels, to kind of give them -- in essence, give
 25 them a frame of reference so they can handle things. But if

1 he were to take his attention for one second off the suspect
 2 and go over to move the lady out of harm's way, that suspect
 3 would have a tactical advantage on the officer, and through
 4 decades of use of force incidents by the FBI, the FBI
 5 researches every use of force incident where officers are
 6 killed, and historically if an officer takes his attention
 7 off a person with a potential weapon in this type of a
 8 situation, he's at great risk to being harmed. If it's a
 9 domestic abuse situation, domestic abuse situations are
 10 highly more likely for officers to get hurt and killed. Now
 11 he cannot only hurt the lady, but the officer who's taken his
 12 attention away. You know, the officer has to perform -- in a
 13 critical incident they want to perform or make a protective
 14 bubble around that person. Their job is contain it to make
 15 sure that person doesn't hurt anyone else and to keep them in
 16 that area until more officers can come and ultimately resolve
 17 it, if we can, through deescalation.

18 But in this situation, again, if he takes his
 19 attention away, or does any other thing, walks away, runs
 20 away, that suspect now has free rein in that community. He
 21 may not only be able get to the lady, the victim, but he
 22 could run into somebody's house or he could run out into a
 23 highway or just do multiple things. So, you know, in this
 24 video he did a very good job, in my opinion as a police
 25 officer, and I don't know how citizens feel. He did a

1 today for coming. We really appreciate all of you here
 2 because you really represent the whole community of South
 3 Dakota, as well as Aberdeen, and the Aberdeen Police
 4 Department, we are very, very progressive. We are heavily
 5 involved in what we call community policing, and I'm just
 6 going to touch briefly, there are so many programs that we
 7 are involved in and we put a lot of attention and work into.
 8 One of the things that we have done is we've been doing a lot
 9 of community outreach. This is so important. We have had an
 10 influx of refugees that have made Aberdeen home, with good
 11 reason. We have jobs. We have good schools. We have a
 12 great community.

13 Are there subtle hints of racism that exist in
 14 Aberdeen? Absolutely. But what's important is to address
 15 them immediately because subtle hints lead to fear, and when
 16 you develop fear in a community, then you start developing
 17 isolation, so we have to address that fear. It is our job to
 18 do so, but the police department is not its own organization.
 19 It is a community organization, and the only way we can
 20 succeed is working with the community to address that fear.
 21 So one of the things we have done through an outreach center,
 22 we've met with Karen, we've met with Somalian refugees as
 23 well. We asked them to come together, form a community
 24 within our community, and then when they meet, that we could
 25 meet with them so that we can hear their concerns. We can

1 profound job, an amazing job trying to communicate with this
 2 gentleman, tried to develop rapport, and you know, he stayed
 3 in an area where he could protect the citizen too. So that's
 4 a very good question.

5 You know, and you bring up great questions. I
 6 know law enforcement agencies across the country develop like
 7 police citizens' academies. They bring citizens to their
 8 agencies and they -- you know, they play out scenarios just
 9 like this, they set it up so citizens can see how dynamic it
 10 is, how difficult it is to control these type of scenarios.
 11 So very good question. Thank you.

12 DR. BRAUNSTEIN: Thank you very much. I think
 13 we're all about ready for a break. We're going to revise our
 14 agenda, and when we come back, I'll make an announcement
 15 about the revisions that we've made. So thank you very much.
 16 Let's take a five-minute break and then get back to it.
 17 Thanks.

18 CAPTAIN McNEIL: Thank you.
 19 (A break was taken.)

20 DR. BRAUNSTEIN: We are going to continue our
 21 discussion of the approach, strategy and values of the
 22 Aberdeen Police Department with a presentation from Sergeant
 23 Theroux, so thank you very much, sir. We are back in
 24 session.

25 SERGEANT THEROUX: I want to thank everybody

1 work with them to teach them if there's cultural
 2 misunderstandings, and then we can work together to problem
 3 solve any issues that they might have. While at the same
 4 time we have to work within our very own community with our
 5 native born Aberdeen residents and South Dakota residents so
 6 that we can share with them the facts of what are really
 7 going on in the community, and not the rumors and not the
 8 misinformation that generally is promoted through social
 9 media.

10 So we had a couple meetings. We've had several
 11 meetings, but here's an example of one where we met with the
 12 Karen community to hear their concerns and address their
 13 concerns and for us to share information with them. When we
 14 have these gatherings, we have uniformed officers there, but
 15 we don't turn on the AXON camera, okay.

16 And then we also had a great event where we had a
 17 gathering with the Somalian community, and they brought in
 18 their food. It was wonderful. They did some dancing. It
 19 was just awesome to see their culture, to learn their
 20 culture, and for them to educate us on some things as well,
 21 but we exchanged information and they're very well organized.
 22 They are very open. They are citizens of Aberdeen, South
 23 Dakota, and as a police department, we work with them. They
 24 are our citizens. We represent them. We are there for them,
 25 as much as we are for everybody in the community, but in

1 order for us to be effective as a law enforcement agency, we
 2 have to have them working with us. We have asked their
 3 community, we have gone right to them and said, please come
 4 and apply, please come, you know, put in an application. I
 5 know we did have one or two Karen actually did come in and
 6 fill out applications, so we're excited about that, but in
 7 order for us to be effective, these are the programs that we
 8 institute, and we do a lot more than just these, but I know
 9 my time is limited so I just wanted to introduce briefly what
 10 we're doing. Are there some questions?

11 DR. BRAUNSTEIN: I have a simple question. So
 12 are these community meetings formalized within the structure
 13 of APD? In other words, do you have formal demographic
 14 advisory councils? Here you've raised two examples of two
 15 demographic groups that are part of your community, or are
 16 these kind of more informal as you go kind of exchanges that
 17 occur as they occur?

18 SERGEANT THEROUX: They're more informal. It's
 19 difficult to -- and this isn't just refugees. It's so
 20 difficult to get a community involved with policing. You
 21 know, if something really bad is transpiring in a community,
 22 then you might get some motivation to do it, but it's so
 23 hard, and don't get me wrong, people are busy, our lives are
 24 busy, you know, and we have many things going on in our
 25 lives, but it would be so nice if more people would be

1 available to you as soon as it is.

2 All right, so thank you very much. We appreciate
 3 that.

4 SERGEANT THEROUX: Yeah. Thank you.

5 DR. BRAUNSTEIN: Are there other comments or
 6 closings for APD because we're going to move on?

7 MAYOR LEVSEN: Keith, I just have a quick
 8 comment. Keith, from my impressions when I've been at events
 9 and seen what you're doing -- and we're talking about subtle
 10 racism -- and the minority populations we deal with, you
 11 know, they would like all of us in the majority population to
 12 love them and not have that subtle racial, either hatred or
 13 animosity, but more importantly, the subtle racism that
 14 bothers them is the subtle racism that makes it hard for them
 15 to get through their day, that whether we like them or not is
 16 not nearly as important as if they can find a way to get a
 17 driver's license or if they can find a way to get their kids
 18 to school or if they can find daycare.

19 You know, those of us in the majority population
 20 deal a lot with what's our attitude and are we welcoming
 21 enough and how do we intellectually approach this. What I
 22 have found from being at those events, that they'd love to
 23 have us all in the right frame of mind, but much more
 24 importantly is they need to get from 6 a.m. to 11:00 p.m. and
 25 subtle racism affects that in a practical way, not an

1 involved in policing and meet with officers and discuss
 2 issues or concerns and share that information.

3 DR. BRAUNSTEIN: Okay. Just as a follow-up, we
 4 are not going to hear testimony from Vaughn Vargas today who
 5 was on our agenda initially, but is not going to be able to
 6 present. He will, however, be presenting his work with the
 7 Rapid City Police Department's community liaison office that
 8 he heads, and he also chairs a community advisory community
 9 of the kind of formalized nature that reports to the command
 10 team of the Rapid City Police Department. That, and this is
 11 for everyone, not just the sergeant, but that will be added
 12 in written form. Again the public record is open for this
 13 meeting through April 24th, and so Vaughn has agreed to
 14 submit a written statement of his testimony, and this is a
 15 new initiative, it's about a year and a half old in Rapid
 16 City, and it may provide insight to the APD about how another
 17 department of relatively similar size, I know Rapid City is
 18 slightly larger than Aberdeen, but how they've integrated a
 19 demographic advisory council which they call the community
 20 advisory committee, and it represents all demographic groups,
 21 not just exclusively, let's say, a Somali group or a Native
 22 American group. It is one that -- you know, and again, it
 23 reports recommendations to the command structure of RCPD. So
 24 I'll encourage everyone, including APD members, to engage
 25 that as part of our written report. Certainly we'll make it

1 intellectual way.

2 MS. BLISS: If you talk to our 211 helpline in
 3 Sioux Falls --

4 DR. BRAUNSTEIN: Can you speak up a little bit?

5 MS. BLISS: If you talk to our 211 helpline in
 6 Sioux Falls, they pride themselves on the fact that a person
 7 can call, and as long as they can understand what language,
 8 they will transfer their language translating line and
 9 they're able to give all those answers on practical everyday
 10 things, and the idea is going out from 211 that those are the
 11 kinds of questions that people have first.

12 DR. BRAUNSTEIN: And is 211 a statewide?

13 MAYOR LEVSEN: No.

14 MS. BLISS: It's not all together, but it's
 15 getting close.

16 MAYOR LEVSEN: It's being considered here, and
 17 looking for funding right now.

18 DR. BRAUNSTEIN: Fair enough. Thank you very
 19 much. Well, we'd like to thank the Aberdeen --

20 UNIDENTIFIED MAN: I'd like to say something.

21 DR. BRAUNSTEIN: Excuse me, it's just not an
 22 opportunity right now for public comment.

23 UNIDENTIFIED MAN: Oh, I'm sorry.

24 DR. BRAUNSTEIN: But we will, but we will have
 25 public comment later on.

1 UNIDENTIFIED MAN: Oh, no problem. Thank you.
 2 DR. BRAUNSTEIN: I want to thank the Aberdeen
 3 Police Department for all three of your individual
 4 testimonies. We're going to move now to Chairman Brandon
 5 Sazue, Sr. who is chairman of the Crow Creek Sioux Tribe.
 6 We'll invite him up to provide his testimony now.

7 Chairman Sazue, do you need any presentation
 8 materials or anything like that?

9 CHAIRMAN SAZUE: No. Well, good afternoon,
 10 everybody. My name is Brandon Sazue, Sr. I'm chairman of
 11 the Crow Creek Sioux Tribe. I'm 43 years old. This is my
 12 third term as tribal chairman. I live about two and a half
 13 hours about southeast of here, and I want to touch on a few
 14 subjects since we're talking about subtle racism in South
 15 Dakota. There's many types. There's long-lasting effects,
 16 and the effects are still happening today.

17 I'm not to going sugarcoat anything. I'm going
 18 to be straight up with you, so please, I apologize beforehand
 19 so as not to offend anybody. If you have any questions, you
 20 can talk to me after this. So I'm going to try to keep it
 21 short and sweet and to the point, and it's about my
 22 experiences growing up in South Dakota.

23 There's a border town next to us called
 24 Chamberlain, South Dakota where I've attended school there,
 25 got in many fights. I don't know why, because I was a kid, I

1 Indian reservations. The student population is of mixed
 2 cultures of mainly Caucasian and Native American students.
 3 The Native American population of students in the district is
 4 made up predominantly of members of the Crow Creek Sioux
 5 Tribe. Many of the students in the district are considered
 6 to be economically disadvantaged. In 2007, the percentage of
 7 students who qualified for free or reduced meals was
 8 42.1 percent. The student population of the Chamberlain
 9 School District 71 includes an ethnic minority population
 10 making up about one-third of the students.

11 Student characteristics. Now this is based on
 12 2006 and 2007 statistics. White, 63 percent. Native
 13 American, 36 percent. Black, less than one percent.
 14 Hispanic, less than one percent. Special education,
 15 6.8 percent. Poverty, free or reduced, 42.1 percent.
 16 Migrant less than one percent. Graduation rate,
 17 98.6 percent. Dropout rate, 1.4 percent.

18 This is about the Lakota Honor Song. The Lakota
 19 Honor Song is a song sung by Native Americans to honor all
 20 people for great deeds that they've accomplished, for hard
 21 work, for sacrifices they made. It's not just for Native
 22 Americans; it's for all people. The Lakota Honor Song is a
 23 traditional song sung by Native Americans honoring all for
 24 hard work and dedication, thus honoring of all peoples. Upon
 25 petition of students attending Chamberlain school, they

1 didn't understand all that stuff growing up. I'm sure most
 2 of us haven't, and you know, that was just part of life, and
 3 it's part of life.

4 As a matter of fact, my family lives in Aberdeen
 5 and has been for the last 15 years; my mother, my brothers
 6 and my sisters. Just me and my sister live in Crow Creek.
 7 So I really like what you guys are doing here in Aberdeen
 8 with the police cameras. I think that goes a long ways. I
 9 think it helps the officers. I think it helps the citizens,
 10 and I think you can set a precedence for the rest of South
 11 Dakota and I thank you for that. Awesome job. Awesome job.

12 What is the definition of subtle racism? Covert
 13 racism is a form of racial discrimination that is disguised
 14 and subtle, rather than public or obvious. Concealed in the
 15 fabric of society, covert racism discriminates against
 16 individuals through often unnoticeable or seemingly passive
 17 methods.

18 So I want to speak a little bit about subtle
 19 racism in education, where it is subtle racism and effects.
 20 Now the names that I say, the towns that I say here, I'm not
 21 saying it to be racist. I'm saying it because that is what
 22 happened, that is where I'm from, and that's what I can speak
 23 about.

24 Chamberlain, South Dakota is located in central
 25 South Dakota bordering the Crow Creek and Lower Brule Sioux

1 petitioned the school board to allow students to have the
 2 Lakota Honor Song sung at graduation. The Chamberlain school
 3 board denied the request by a vote of 6 to 1.

4 Now why do you think they did that? Is it subtle
 5 racism? Is it because they don't understand it? Will they
 6 take the time to understand it?

7 This incident spurred controversy for Native
 8 Americans and the Caucasian communities. An organization
 9 started by the widow of slain rights civil leader Martin
 10 Lutheran King, Jr. is supporting the effort to include the
 11 honor song in the high school graduation ceremony. A
 12 descendant of Martin Luther King wrote a letter to the
 13 Chamberlain school board supporting the Lakota Honor Song.
 14 Now it should never even have got to that point, not even
 15 close.

16 A letter was sent to the Chamberlain school board
 17 in support of the honor song signed by King's daughter,
 18 Bernice King. King wrote, when they are sung in the Native
 19 language, they affirm shared pride and the wonderful Native
 20 American heritage of South Dakota and other states in the
 21 region. So in question, is this school board showing signs
 22 of subtle racism? In my opinion it is obvious. Others may
 23 claim otherwise, but let's look at the facts surrounding
 24 predominant Caucasian schools with fewer diversities allowing
 25 the honor song at their graduation ceremonies. Keep in mind

1 this is 2013.

2 So the surrounding communities in public schools,
3 mainly Caucasian, do allow the honor song. Chamberlain is
4 the only one that I don't understand why not. Is it because
5 of how we grew up? Is it because of the long-lasting effects
6 of subtle racism over time?

7 In April of 2010, six Caucasian students decided
8 to wear T-shirts with "white pride" printed on them. Two
9 students agreed to change their shirts on the spot while the
10 other four refused and went home. Is this subtle racism? My
11 opinion, it could be yes, could be no. They're students,
12 maybe they don't understand. Maybe they're trying to make a
13 statement. But in a predominant town such as Chamberlain,
14 mainly Caucasians, mainly your surrounding community are
15 Native Americans, is it subtle racism?

16 Some years ago, the school buses ran from
17 Chamberlain to Fort Thompson, which is on the Crow Creek
18 Indian Reservation, where the students from K through 12 had
19 the opportunity to ride the bus to get an equal education.
20 For the last decade or so, the buses have stopped
21 transporting middle school students through high school
22 students in which a majority of Native American students from
23 the Crow Creek Indian Reservation were deprived of an equal
24 and adequate education offered by the Chamberlain School
25 District. This has given the Native students less of an

1 asked the school board. Their reply was no. He then said,
2 so what you're telling me is that you do not receive impact
3 aid for our students, and am I wrong? Reply, oh, yes, we do.
4 Why didn't you answer the -- give the correct answer in the
5 first place? Is this subtle racism? In my opinion, yes.

6 So I'll move on from that subject. Let you
7 ponder on that for a while.

8 The police body cameras. As chairman of the Crow
9 Creek Sioux Tribe, I do support the use of police body
10 cameras. I wholeheartedly support that, and I love what you
11 guys are doing.

12 In October of 2013, an eight-year-old Native
13 American child was Tasered by police in Pierre, South Dakota.
14 An eight-year-old girl. Four police officers decided that
15 this young child who had a small paring knife was a danger to
16 herself requiring them to Taser her. The 70-pound child was
17 Tasered in the chest, the force of the electricity lifted her
18 and threw her against a wall. Later the police would say
19 Tasered the eight-year-old Native American girl was
20 justified. Had the police officers been wearing body
21 cameras, do you think the outcome would have been different?
22 Is this subtle racism? My opinion yes, because to cover
23 their actions, the police claim it was justified. Common
24 sense would tell you otherwise. The effects of this will be
25 long-lasting. Had the police had cameras, it would have put

1 opportunity to achieve, leaving them no choice but to attend
2 the Crow Creek tribal schools. Is this a form of subtle
3 racism, or can the Chamberlain School District say it was
4 about funding, thus covering up the covert act?

5 Now we could justify it any way we want. We
6 could say yes, there was no funding. But it just so happens
7 that a majority of the kids who drove on those buses were
8 Native Americans from the surrounding areas. Now no longer
9 do they have a chance at an equal education because we live
10 20 miles north of Chamberlain. Some of them want to, you
11 know, better themselves, challenge themselves by going to
12 Chamberlain, so their parents are paying for them to drive
13 20 miles every day, back and forth, 40 miles. That's not
14 including doing the sports. That's not including
15 after-school activities. So we have a long history here, and
16 this is only one school district.

17 Impact aid program is designed to directly
18 compensate local school districts for costs incurred due to
19 federally connected students. Federally connected students,
20 Native Americans. About 36 percent Native Americans in
21 Chamberlain School District and they can't run a bus?

22 2014, 2016, Crow Creek Tribal Council Vice
23 Chairman, Kyle Kirkie, sitting right back there, asked the
24 Chamberlain school board in a board meeting held in Fort
25 Thompson, do you receive impact aid for our students? He

1 themselves on notice saying, hey, your boss, everybody's
2 watching. Just because an eight-year-old has a paring knife,
3 would you shoot her? No. There are other means and other
4 actions.

5 Now I'm going to probably hit on the hardest core
6 of subtle racism in South Dakota, maybe in other states.
7 Subtle racism in the highest authority, in the highest
8 authority. That's as politicians. That's the police chiefs,
9 sheriffs, chairmans, presidents, congress, senators.

10 August 2013, the Crow Creek Sioux Tribe signs a
11 memorandum of understanding, MOU, with the South Dakota
12 Highway Patrol inviting the highway patrol to help with the
13 annual powwow held every third week in August on the Crow
14 Creek Sioux Indian Reservation. Now what this is is a
15 celebration every year on our tribes to celebrate, have dance
16 contests, those sorts of things. We want to keep it the
17 clean. We want to keep the drugs and the alcohol out.
18 Unfortunately that kind of stuff draws the alcohol.

19 The tribal council put their reputations on the
20 line to better serve the needs of the members of the tribe
21 during the annual powwow in which tribes are very hesitant to
22 do so due to the mistrust of long-lasting abuses by the
23 United States.

24 When I was chairman from 2012 to 2014 in my
25 second term, we signed that MOU with the South Dakota Highway

1 Patrol and it was about diversity. They can come and
 2 understand our people. Come in once a year for three days
 3 and understand our people, and plus we needed the help
 4 because of the funding of the BIA, we don't have enough
 5 officers. It's about 50 miles from one side to the other.
 6 We have one officer working on weekends.
 7 The state was in the process of changing
 8 legislation to cross-deputize Bureau of Indian Affairs
 9 officers to become highway patrol. Diversity for Crow Creek
 10 and the State of South Dakota were now coming together. That
 11 was awesome. These police officers came on to our
 12 reservation. People had lots and lots of questions. We were
 13 getting threatened by our constituents, but yet it was all
 14 about public safety and working together. We put aside our
 15 differences to move forward in the right direction for
 16 everybody. These officers went over to our local casino to
 17 eat. Our citizens paid for their meals. That's how good it
 18 was. But here's another problem -- subtle racism.
 19 2016, Standing Rock would change everything.
 20 Everything. Everything was changed. A majority of
 21 protesters, water protectors, Native Americans would go to
 22 Standing Rock to help fight the Dakota Access Pipeline, DAPL,
 23 to protect water from the big oil companies. Soon South
 24 Dakota would send their highway patrols, the same ones
 25 working with us, to North Dakota to, in their opinion,

1 going to be another Standing Rock, assumes, without
 2 consulting with the tribes. Is this subtle racism? Is it?
 3 Is it justification?
 4 March 29th, 2017, the governor for the State of
 5 South Dakota now wants to consult with the nine tribes in
 6 South Dakota on the upcoming Keystone XL Pipeline protests
 7 that are soon to come. After the fact.
 8 On the 29th -- the governor is a good guy, he is.
 9 I met him. I talked to him. I have had breakfast with him.
 10 Wonderful man. I'm not going to that meeting on the 29th.
 11 Consultations over. Consultation should have happened
 12 before, not I'm going to do this and come and meet with us.
 13 My opinion, yes, without a doubt, we as Native
 14 Americans were never consulted on the issues that would
 15 affect our communities, as well as our water sources. Now
 16 had we been properly consulted, would things be different?
 17 Yes, they would be different.
 18 Conclusion, subtle racism, covert racism has been
 19 with us since the dawn of time. From actual to subtle, the
 20 effects are still long-lasting and still ongoing. Mankind
 21 has created its own disguise to cover up its real intentions
 22 by discriminating against individuals through often
 23 unnoticeable or seemingly passive methods in the name of
 24 justification for one's own cause. Soon there will be no one
 25 to discriminate against. There will be no world, no water,

1 protect the peace. We all have difference of opinion.
 2 Soon pictures emerged of South Dakota officers
 3 using batons on our people. What do you do as a leader? The
 4 same people you try to work with, no consultation with us at
 5 all until after it happened. The Crow Creek Sioux Tribe
 6 immediately contacted the governor's office. In a meeting to
 7 no avail, to no avail, tensions would rise, thus an end to
 8 the memorandum of understanding with the state. Down the
 9 drain. Four years of hard work down the drain. Had the
 10 governor consulted with the tribe, would the outcome have
 11 been different? I believe it would have. We didn't have to
 12 find out that way.
 13 South Dakota governor introduced Senate Bill 176,
 14 a law that would basically expand the power of his office to
 15 curtail protest activities in state. This bill was
 16 introduced as a result of the new president of the United
 17 States of America signing an executive order to renew the
 18 Keystone XL Pipeline in South Dakota. Based on the Standing
 19 Rock protest, the governor of South Dakota put a bill into
 20 motion, and it is now passed, basically criminalizing protest
 21 and violating the constitution of the United States freedom
 22 of speech and the right to assemble. Most of the people from
 23 Standing Rock are Native Americans, so we feel that the laws
 24 are aimed at more towards Native Americans because of
 25 Standing Rock. So the South Dakota government assumes we're

1 no food, no people, no animals, no world.
 2 Racism has taken hold on those in power to change
 3 the world for all the wrong reasons, when only they could
 4 have made the right choices for all. If only they could
 5 understand what divided us can unite us. What divided us can
 6 unite us.
 7 You know, each and every one of us have the
 8 ability to stop racism, to stop subtle racism. We have the
 9 answers. The answer's right here, and that answer is can we
 10 all just get along? Can we all just get along? I don't care
 11 about the color of your skin. I care about you as a human
 12 being. I don't care where you come from. I don't care if
 13 you're poor. I don't care if you're rich. I care about you
 14 and the person you are. Oftentimes we don't take the time to
 15 get to know one another, what their favorite colors are, what
 16 their favorite basketball team or football team is. Instead
 17 we're too quick to choose; well, you come from there, so
 18 that's already against you.
 19 You know, I'm not perfect. I'm a survivor of
 20 suicide. A few days ago my son got sentenced to ten years in
 21 prison, 23 years old. Twice he got caught for ingestion of
 22 meth. Yeah, I understand he has to go to prison. I was
 23 thinking two to five. A young man sitting there, Native
 24 American, long hair, he got the max for a few parole
 25 violations. He got hammered. Is that subtle racism? I

1 don't think so. We could look at it different, but I bet you
 2 if we can go back and look at the history of Native Americans
 3 versus Caucasians getting sentenced, I'll guarantee you there
 4 will be a little bit of difference, yeah. We had two
 5 prosecutors there, one from one county and the other from the
 6 other county. They put me on the stand like I was a
 7 criminal. I'm a chairman. In my first term as chairman, I
 8 wore a wire for the FBI in OIG, Office of Inspector General.
 9 I took down corruption in my tribe, but yet I was being
 10 treated like a criminal. Had I been a different color, would
 11 you have treated me different? Would you have respected me
 12 more? I don't know because it didn't happen.

13 But those are just a few things to ponder on and
 14 think about. In order to change this world and in order to
 15 change ourselves, we start with ourselves. We start with
 16 those children in our homes. We teach them the right ways
 17 instead of leaving racism with them. Unteach them to not see
 18 color, because when children are about this high and they're
 19 hugging each other, they don't see color, not until they
 20 start getting older where they start understanding and start
 21 talking. You know, we all got labels for all the names we
 22 get called, every name in the book, you know, from Indians to
 23 non-Indians to you name it, everybody's got a bad name for
 24 everybody. If we just call each other by our real true
 25 names, if we just get along, there would be no racism. This

1 current status of the MOU and it being canceled. I have held
 2 out to my students at the University of South Dakota that
 3 this was a bright ray of goodwill. I learned about it first
 4 by Gerald LaPlante who hails it -- our former Secretary of
 5 Tribal Relations, who hails it as great progress. So I just
 6 learned today from you, sir, that that's -- what the status
 7 is now. Invalid, right?

8 CHAIRMAN SAZUE: Yes.

9 DR. BRAUNSTEIN: My question is, what are the
 10 dynamics that led to the invalidation of that MOU? Was it
 11 your constituent's pressure? Was it the distrust of working
 12 with people who had been invited to collaborate on the Crow
 13 Creek Reservation? You know, I don't want to manufacture
 14 potential answers, but --

15 CHAIRMAN SAZUE: No, that's fine.

16 DR. BRAUNSTEIN: -- what is your sense first of
 17 what are the dynamics that led to the demise of this
 18 agreement, and what do you think about the future of
 19 reinstating it?

20 CHAIRMAN SAZUE: Well, I was in Standing Rock for
 21 three and a half months. As the leader of my tribe, I went
 22 up there to help protest to fight for clean water, everything
 23 you're drinking right in front of you. It might seem funny,
 24 it might seem strange, but that's what we went up there for.
 25 And a few months into it, I drove to Mandan, I seen some

1 world would be a wonderful place, but unfortunately it's not
 2 that way. It stems from our leaders, people in the power of
 3 authority.

4 I commend you, sir, I commend you what you're
 5 doing with that. That's a leader. That's a leader. When
 6 leaders see something wrong, they do something about it.
 7 They don't sit back and try to hide behind a group of
 8 republicans or a group of democrats or independent, they do
 9 what's right for everybody. That's what's wrong with
 10 society; we have grouped ourselves into different situations,
 11 different groups to justify our own agendas, not justify
 12 people's agendas. So with that, I want to thank you. Thank
 13 you.

14 DR. BRAUNSTEIN: Thank you very much. So is it
 15 possible that anyone on the committee has questions for the
 16 chairman? I'm sure even though --

17 MAYOR LEVSEN: I can't add to that, I don't
 18 think.

19 DR. BRAUNSTEIN: Okay. I would just like,
 20 Chairman Sazue, Chairman Sazue, I just have one question,
 21 sir.

22 CHAIRMAN SAZUE: Yes, sir.

23 DR. BRAUNSTEIN: It relates to the MOU.

24 CHAIRMAN SAZUE: Yes.

25 DR. BRAUNSTEIN: I am sad to be updated about the

1 South Dakota highway patrol cars up there and I'm like, what
 2 are you guys doing up here? I've been on four-mile marches,
 3 a hundred car caravans, nobody was trying to hurt anybody.
 4 It's all about water.

5 So when I seen them, I got ahold of the
 6 governor's office, the new secretary of state, Steve Emery,
 7 and asked him what South Dakota Highway Patrol was doing up
 8 in North Dakota, and we set up a meeting for them to come to
 9 Crow Creek to talk with us and tell us why. So they were up
 10 there to keep the peace. Well, when you're up there to keep
 11 the peace, that's one thing. To see the same South Dakota
 12 highway patrol troopers hitting somebody with a baton up
 13 there, that's another thing. So that's kind of what did it
 14 for Crow Creek. We're not going to have any of that, we're
 15 not going to be a part of it.

16 We also have a tax agreement with the State of
 17 South Dakota where there's a 90/10 split. The State of South
 18 Dakota administers it for us, so they get ten percent and
 19 they give us 90 percent, which is a great deal. A good
 20 working relationship, soon to be gone. Soon. That's not
 21 gone yet, but -- so those were the two issues were the MOU
 22 with the State of South Dakota and the tax agreement. We
 23 couldn't come to a resolution because of some kind of a --
 24 whatever the states had with each other for emergency
 25 responses to help each other out, but that wasn't emergency

1 responses, that wasn't a natural disaster. That was a
 2 man-made problem. So unfortunately, we did away with the
 3 MOU, and to take it a little further then the MOU now comes
 4 the backlash of Standing Rock into South Dakota because of
 5 Keystone XL, the new pipeline that's going to shape ship
 6 through South Dakota. So automatically assuming that South
 7 Dakota's going to be the new Standing Rock, we jump on board
 8 without consulting the tribes and we push a bill real quick
 9 through the legislature to make it more criminalized to
 10 protest. To say, well, I'm going to say that's a safety
 11 zone, if you pass it, you're going to jail for ten days or
 12 you're going to jail for a year. Well, if you was arrested
 13 beforehand like up in Standing Rock and now you're arrested
 14 again, you're going to become a felon, you're going to spend
 15 a year or two in prison.

16 I was arrested at Standing Rock October 27th. My
 17 number was number 137. I seen those cages. I was in those
 18 cages. I was taken to Mercer County where they stripped me
 19 down and told me to bend over and spread my butt cheeks. I
 20 couldn't do it. You know, I still think about that today.
 21 You know, would you do that to the president of the United
 22 States or to the mayor of the town or to a chief of police,
 23 or would you do that to somebody from congress? No,
 24 absolutely not.

25 I was charged with three charges, a felony,

1 lawsuits filed again the South Dakota protest, whatever it's
 2 called, the law that you referred to that passed this last
 3 session, has it been filed? Have there been injunctions
 4 filed in federal courts?

5 CHAIRMAN SAZUE: Not that I'm aware of. I'm not
 6 aware of any lawsuits or anything like that, but --

7 DR. BRAUNSTEIN: So no one's asked, or no one's
 8 presented the Crow Creek Sioux Tribe with an opportunity to
 9 file a federal claim for an injunction against the
 10 application of this law?

11 CHAIRMAN SAZUE: Not yet, no.

12 DR. BRAUNSTEIN: And the law has been signed by
 13 the governor?

14 CHAIRMAN SAZUE: I believe it has, yes. And
 15 ironically today, I think the president of the United States
 16 just put something out on TV about the KXL pipeline. So
 17 whatever's coming, I don't think we all know about it until
 18 it happens and if it does happen.

19 DR. BRAUNSTEIN: I'm saddened to hear this news.
 20 I'm, you know, without an example of greatness now to share
 21 with my students, which is a great loss for all of us.

22 CHAIRMAN SAZUE: It is.

23 DR. BRAUNSTEIN: Thank you for your time.

24 CHAIRMAN SAZUE: Thank you, sir.

25 MR. LACROIX: I've got something, Richard.

1 conspiring to harm by fire, inciting a riot, and a public
 2 nuisance. Well, the felony charge has been dropped. They
 3 still can't produce a police report, but that's, you know, a
 4 whole different ball of wax but just in a different state.

5 Is that subtle racism? Is that actual racism?
 6 And it has to go with racism in our government. Different
 7 forms of it. Not color. But I got more power than you, I
 8 can do what I want. I'm going to get paid this, and I'll do
 9 what I want anyway. So that's kind of how we did away with
 10 the MOU. And it was great, it was a learning process, other
 11 tribes were going to do it. We were going to do -- the South
 12 Dakota legislature was going to pass a bill to allow our
 13 officers to become highway patrol, cross-deputizing each
 14 other, and so you know, with all the meth rising and all the
 15 drugs, man, that was the perfect opportunity. But we have to
 16 stand for something. We have to stand for something, and
 17 that's what we did.

18 DR. BRAUNSTEIN: And I realize that the response
 19 has put this effort to collaborate and towards
 20 cross-deputization back, you know, I understand that. Along
 21 with that reverse progress, and there are probably many
 22 people that know this better than I, so I apologize for
 23 taking up your time.

24 CHAIRMAN SAZUE: No problem.

25 DR. BRAUNSTEIN: But will there be federal

1 Brandon, we had a case with our sheriff in Rapid City, we
 2 sent some officers up there at the same time, and I know the
 3 sheriff very well, and when I had got on the commission, one
 4 of his comments that he says was if I would have -- you know,
 5 we have mercy management deals where if somebody asks for
 6 help, we send police officers. I know you mentioned that,
 7 but then you said that this wasn't the case, but it's also if
 8 somebody asks for help, you send them. I know our sheriff
 9 said if I would have known the impact that it would have had,
 10 he wouldn't have done it, so he regretted sending some of our
 11 sheriffs up there, so I just wanted to pass on that, you
 12 know, there is some regrets, maybe they didn't understand,
 13 whoever was making that decision to send these people, there
 14 could be some remorse in there. They probably didn't know
 15 the impact of what they were doing. They just thought
 16 somebody asked for help, we're sending them.

17 CHAIRMAN SAZUE: And I thank you for your words,
 18 sir. I mean no disrespect to anybody. Unfortunately
 19 nobody's going to understand the situation unless they got up
 20 there. You got to live it and be there every day to
 21 understand it. Now we could sit back and watch the news all
 22 day long and half of it's true and the other half's not. You
 23 got to experience it firsthand to know what's going on. So I
 24 thank you for your words, sir.

25 DR. BRAUNSTEIN: Thank you. I appreciate it.

1 CHAIRMAN SAZUE: Thank you.

2 DR. BRAUNSTEIN: Well, we are going to move ahead
3 to the second panel. I think what we might do is just take a
4 very quick break and then the diversity panel which was
5 supposed to begin, oh, about two hours ago will convene with
6 the speakers selected for 2 p.m. How about three minutes,
7 all right? I realize that's not very long, but come back as
8 soon as we can.

9 (A break was taken.)

10 DR. BRAUNSTEIN: The second panel entitled our
11 diversity panel brings together areas from a number of public
12 and nonprofit organizations and educational institutions, and
13 so we are excited to hear the testimony of this diversity
14 panel on the subject of diversity on the subtle forms of
15 racism. We are going to start with Professor Smith, who is
16 Professor and Chair of Arts and Sciences at Presentation
17 College, as well as Vice Chair of the Aberdeen Area Diversity
18 Coalition. Professor.

19 PROFESSOR SMITH: Thank you. Thank you. My name
20 is Naomi, and I have lived in Aberdeen for a whole two and a
21 half years. Not very long. In fact, I describe myself as an
22 expat, and if any of you have lived abroad, it means that I
23 lived all the way in Minnesota and I ended up coming to this
24 new country, and as a trained interculturalist, I need to
25 figure out how to study the culture of Aberdeen to figure out

1 growing. We noticed that other languages were being spoken
2 in the grocery store. That feels great to me. I love that
3 international feeling, but I recognize that doesn't feel so
4 good and safe and familiar to other people, and I understand
5 that because that is my area of study.

6 I come here to Aberdeen with hope and concern and
7 I'm ready to work at this, bringing us together as a
8 community that better understands one another in our
9 diversity, and I absolutely believe in the value and the
10 importance of diversity for a rich society. I absolutely am
11 convinced of that, but I also know that it's hard work and
12 that's what the diversity coalition is about. We're trying
13 to figure out ways that our new immigrant community can
14 better settle and figure out Aberdeen, and I'm part of that
15 trying to figure out Aberdeen. So that's what our work is
16 about, and I have brochures for the committee so you can see
17 a little bit about what we're trying to do.

18 But I wanted to tell you a little bit of what my
19 observations have been moving to South Dakota from Minnesota.
20 Before I came to South Dakota, my experience had been with
21 professors from the tribal community schools, colleges and in
22 higher education, that's my field, and it was really
23 wonderful to meet professors from the tribal communities to
24 hear about how they were doing education in different ways
25 than I was in my traditional Swedish Baptist college where I

1 how to acculturate here in Aberdeen. Not assimilate, but to
2 acculturate here, and so I've had really a very positive
3 experience learning about Aberdeen, learning about South
4 Dakota as an interculturalist.

5 So what is an interculturalist? It's a
6 discipline that's a multi-disciplined area where we bring
7 together, for me in particular, it's been cross-cultural
8 communications, so the field of communication, justice and
9 peace and reconciliation studies, anthropology, sociology,
10 and me in particular, it's been religion, and so it's been
11 very interesting for me to study Aberdeen with a growing
12 population of Muslims because that happens to be my area of
13 expertise of study. I've lived in the Middle East, done work
14 in peace and reconciliation work on the West Bank and in
15 Jordan, and so here I end up in Aberdeen, South Dakota, and
16 I'm pleased by the fact that this is happening today.

17 I'm pleased to say I am a citizen of Aberdeen. I
18 can serve along with and under the leadership of our mayor
19 and of this police department.

20 I've been privileged to be a part of a grassroots
21 organization that is called the Aberdeen Area Diversity
22 Coalition, and my friends and coalition members are sitting
23 here in the audience. We've come together as a group of
24 citizens because we noticed that the number of immigrants was
25 growing, the number of different faces, colored faces was

1 taught at Bethel University in St. Paul, and I enjoyed
2 hearing the stories and I thought there's something really
3 different here going on, something that I didn't know about,
4 and then one of my colleagues from the psychology department
5 spent their sabbatical at Rosebud college and tribe. I loved
6 hearing Cathy's stories coming back of teaching there and
7 learning to teach in different ways, and then of course I've
8 watched Dances with Wolves, so I came to South Dakota,
9 Aberdeen, a little bit kicking and screaming with tears in
10 moving here from St. Paul, but I came here ready to be a good
11 interculturalist and ready to embrace and learn more about
12 tribal society, to hear about that and learn about it, and I
13 came to Aberdeen and I didn't see people from the Native
14 American -- well, I thought where are you? I want to get to
15 know you, and I didn't see the Native Americans here, and I
16 wondered why.

17 So then I went to my first conference and I was
18 getting ready to go to Rapid City and I was riding with a
19 person and that person's spouse was on the state patrol and
20 we were going to need to come back very late at night, and I
21 was told "be careful, don't drive through the reservation at
22 night, take two extra hours to drive from Rapid City to take
23 the main highways because it's dangerous." Well, I've spent
24 time in the West Bank, I've crossed over that border. I've
25 spent time in Belfast during some of the most dangerous and

1 violent times -- that's telling my age, I know -- but I'm
 2 somewhat used to that kind of potential, and being new to
 3 South Dakota, I had to take those stories of don't drive
 4 through the reservations at night from a state patrol
 5 officer's warning to the spouse, I had to say, well, there
 6 must be -- maybe there's something there, but I have a
 7 feeling there's something not right there. There is some
 8 kind of racism that's going on in that story. There's been
 9 stories built up that it's dangerous to drive through the
 10 reservation at night, and I thought this just can't quite be
 11 true, but it gave me my first hint that there's definitely
 12 racism going on here towards Native people when it's coming
 13 from a state patrol officer.

14 So there's more stories that I can tell, more
 15 observations that I can tell you about my first two and a
 16 half years living here in South Dakota that makes me want to
 17 serve on this Diversity Coalition, specifically for
 18 immigrants.

19 One of those stories was to be in a meeting where
 20 a guest was invited from outside of South Dakota to talk
 21 about the importance of Americans being first in our city,
 22 and what I observed was one of the most frightening gathering
 23 of citizens that I have ever experienced where the anger and
 24 the emotion got so high for fear of immigrants who were
 25 Muslim and from a different religion who were growing in

1 pamphlet that Dr. Smith had just handled out and what
 2 cultures or countries are currently identified and there's a
 3 long list and it goes into the international students at
 4 Presentation and Northern colleges. I don't see Indians.
 5 PROFESSOR SMITH: I agree. And here's part of
 6 this is that we're trying to address new immigrants or
 7 non-Americans and asking the question how can we support
 8 that, even though our name is diversity, and I think that
 9 creates a little bit of confusion, but so that's our primary
 10 task is to ask that question is how can we help people settle
 11 here who are new to the United States and I'm welcome --
 12 please say more.

13 MR. GERMAN: Well, I think as Chairman Sazue had
 14 said there is a large number of tribal members from different
 15 tribes that settle here because of the federal building,
 16 probably a large number of students coming to Aberdeen to go
 17 to school. It could very well be that they're new to this
 18 environment as well coming from reservation communities to
 19 Aberdeen, so it could very well be that they are overlooked.
 20 Their experience is new. It may not be as new as coming from
 21 one of the countries listed, but I think there's probably
 22 some commonalities.

23 PROFESSOR SMITH: I would agree. Thank you.

24 DR. BRAUNSTEIN: Yeah, just as a follow-up to my
 25 fellow committee member. You know, I think that it comes

1 number and population here in Aberdeen. It was absolutely
 2 frightening, and all I did was stand up in a very white
 3 dress -- and sometimes I wonder if it was because I was
 4 wearing a very white dress -- that I asked the speaker, do
 5 you have sources for the claims that you're making about
 6 Muslims across the world in Saudi Arabia, places that I had
 7 been to in fact, and what those immigrants, what those Muslim
 8 immigrants were doing here in Aberdeen, South Dakota and
 9 wanted to take over our city and country with Sharia law, and
 10 they turned around with such anger and said, "Well, what
 11 sources do you have?" I thought what sources do I have, I'm
 12 not even claiming anything, I'm just asking for your sources.

13 I saw one Aberdonian threaten another
 14 Aberdonian's life. It was a frightening, frightening
 15 experience. We have work to do here in Aberdeen around this.
 16 We are doing work with the Diversity Coalition. We are doing
 17 work here with this panel taking place and that this is part
 18 of a research study, so I'm pleased to be part of the
 19 Diversity Coalition. I invite you to come to the 4:30, if we
 20 get to 4:30 to 6 o'clock session where my chair of the
 21 Diversity Coalition and others will speak more about what it
 22 is that we're doing. Thank you.

23 DR. BRAUNSTEIN: Thank you so much. Other
 24 questions on the committee? Yes, sir.

25 MR. GERMAN: Mr. Chairman, I'm looking at the

1 down to your purpose. So to reframe and to look within your
 2 organization and think, you know, what is the mission of our
 3 organization and to be explicit so that you're not perceived
 4 to be or actually being exclusive, right, because I know that
 5 listening to you, inclusiveness is a value that you hold and
 6 want to respect, but I think that, you know, you would be
 7 well advised to consider a broader perspective, a broadening
 8 of your mission, but we certainly appreciate you coming and
 9 sharing your testimony with us today.

10 And just so everyone knows, we will have time for
 11 that public session. It will not be at 4:30. I apologize to
 12 everyone, including our third panelists. I know that we have
 13 a state's attorney who's sitting there very patiently, and I
 14 ask everyone to have that patience because this is valuable
 15 work we're doing.

16 I'll invite Mary McDermott, Director of the
 17 Aberdeen Head Start Program, if she's here.

18 PROFESSOR SMITH: Unfortunately, Mary was needing
 19 to leave.

20 DR. BRAUNSTEIN: I believe she was, and I was
 21 going to say that I didn't want to make a mistake though, so
 22 hopefully Ms. McDermott will submit her comments in writing.

23 We would like to next invite Lawrence Diggs,
 24 author, columnist and public speaker from Roslyn, South
 25 Dakota. Mr. Diggs.

1 MR. DIGGS: Yes. I think Scott had something he
2 wanted to say.
3 DR. BRAUNSTEIN: Please go ahead.
4 MR. GERMAN: Mr. Chairman, I'm working for my
5 tribal chairman at Sisseton right now and yesterday we had
6 four secretaries of state come in and one was the Indian
7 Affairs, Department of Revenue, Public Safety and the
8 Department of Corrections. We've got a cooperative agreement
9 to conduct parole services for the Department of Corrections
10 at home. It's really been helpful in reducing recidivism,
11 but in that, the secretary of public safety and the colonel
12 of the highway patrol was there, and the secretary of public
13 safety gave me a card yesterday and said if there's anything
14 we can do, please feel free to contact me. Could I contact
15 him with your story about one of his patrol officers giving
16 some advice not to travel through reservations? Because as
17 you'll have heard in the earlier presentation from the
18 Aberdeen Police Department, when my fellow commissioner had
19 made the observation of the language, he/him/him/he, those
20 kinds of communications are, if I'm not mistaken, subtle
21 forms of. So could I use your story to communicate to the
22 secretary of public safety that they may need to revisit some
23 training? Cultural sensitivity.
24 PROFESSOR SMITH: Yes.
25 MR. GERMAN: When you see a statement like that

1 know, I travel back and forth. At that point, I was working
2 the LaTome (ph.) District in Pine Ridge. I don't think I
3 pronounced that correctly. So I was traveling back and
4 forth, and two elderly parishioners in the UCC church, which
5 was the most liberal self-professed inclusive church in
6 Vermillion, two parishioners quickly told me the same thing,
7 "Oh, don't drive through the reservations at night," and I'm
8 afraid -- well, I stopped being part of that community for
9 that and similar reasons. It's like there's some hypocrisy,
10 but I think there's a subtle form that permeates the culture
11 here in South Dakota, and it's the same where I'm from. I'm
12 from just outside of Harlem in New York City. I grew up in
13 New Jersey across the bridge, so it's a mile and a half away,
14 and people would say the same thing about Harlem. "Don't
15 drive through Harlem, don't go on the Cross Bronx Expressway
16 at night. If you break down, you know, push your car."
17 Yeah, it's pervasive and it is absolutely a
18 subtle form of racism that we need to address. I'm sure that
19 in our committee's report, we'll have an opportunity to
20 address it ourselves, as well as you privately talking with
21 Trevor Jones about that, but it is present in South Dakota,
22 and I was shocked to learn that some of what I was running
23 away from at home in New Jersey, I'm telling you, it was like
24 the third week I was here. I was like ah. It was very
25 deflating to hear the same -- you know, just a different --

1 dressed in the guise of officials, of officialdom, what does
2 that mean to me when I've got this colored skin and he's
3 saying that?
4 I'm behind you in line at Kessler's buying
5 groceries as his wife is telling you that. What does that do
6 to me?
7 PROFESSOR SMITH: Yes, and I would be happy to
8 work with you on that training. And I think the greater
9 threat, because then my husband and I did drive through the
10 reservations at night, and the greater threat is animals.
11 DR. BRAUNSTEIN: Those deer are vicious.
12 PROFESSOR SMITH: Unbelievable. Beautiful.
13 MR. GERMAN: For sure.
14 DR. BRAUNSTEIN: Well, unless they're attacking
15 your car.
16 PROFESSOR SMITH: Yes, but to me it was just
17 beautiful.
18 DR. BRAUNSTEIN: I just hit a deer in Valentine,
19 Nebraska last week, so my sensitivities are high.
20 PROFESSOR SMITH: Thank you.
21 DR. BRAUNSTEIN: I will say that as a new member,
22 Scott, I will say that as a new member of South Dakota, and a
23 Jewish member of South Dakota, we tried to find a home in the
24 UCC church in Vermillion for some religious education for my
25 children, and when I told some of the parishioners that, you

1 instead of the Cross Bronx Expressway, now it's the
2 reservation. I don't know why people feel the need to do
3 this.
4 MR. GERMAN: I had the privilege of being on the
5 South Dakota Public Broadcasting board for a year. I just
6 couldn't make the schedule work, but we were at dinner in
7 Rapid City with my committee, and our executive director was
8 telling a story. I was the only Indian on the board at the
9 time, and I was talking about my German Norwegian heritage,
10 and she said, you know, Scott, that's really interesting
11 because South Dakota Public had done an event in Rosebud and
12 she said, you know, as tribes do, they feed and they feed a
13 lot. So we were at a community feed, and she said we're
14 sitting at long tables, and she said at the table behind me,
15 she said I hear these two little old ladies talking and the
16 conversation is this:
17 The one little old lady is saying to the other
18 little old lady, we're really concerned about my niece, she's
19 marrying this guy and they're moving to Rapid City and we're
20 worried because she's going way over there. She's not going
21 to have any family, she's not going to have any friends,
22 she's not going to have any support network way over there.
23 Mind you, it's two and a half hours. Way over there. And my
24 executive director of South Dakota Public said the only thing
25 I could think was growing up in southern Minnesota I heard my

1 grandmother and my aunt have the same conversation because
 2 one of my aunts was getting married to a Norwegian farmer
 3 from Northern Iowa and she was going to move way over there
 4 to Northern Iowa and she wasn't going to have any support
 5 network, she wasn't going to have any friends nearby, she
 6 wasn't going to have any family nearby, and what is she going
 7 to do over there? And she said all I can think was I heard
 8 the same conversation in Southern Minnesota and that was in a
 9 completely white conversation. I mean --

10 DR. BRAUNSTEIN: Difference permeates our needs
 11 at some silly level.

12 MR. GERMAN: But commonality underwrites that.

13 DR. BRAUNSTEIN: Yeah. Thank you very much for
 14 raising additional attention to that comment, and I'm sure
 15 that we'll have an opportunity to take that on in our written
 16 work summarizing this testimony.

17 Mr. Diggs, you have been very patient. I'm going
 18 to introduce you again. Lawrence Diggs, author, columnist,
 19 public speaker from Roslyn, South Dakota.

20 MR. DIGGS: Well, this last conversation I think
 21 is a perfect segue into my presentation, as I think you will
 22 see shortly.

23 I was told as I was growing up that 80 percent of
 24 life is showing up, and so I want to appreciate the Aberdeen
 25 Police Department for showing up because this has not been

1 going to think that some people are going to disagree with
 2 me, but I want to start with a fundamental to see if we have
 3 any basis of agreement, and I'm going to say that all
 4 conversations start with agreement of terms. That is to say
 5 that if you say fish and I'm thinking bicycle, when we talk
 6 about dinner, it's probably not going to work. Do I have a
 7 disagreement on that? Because if we have a disagreement on
 8 that, we're disagreeing about whether gravity exists or not,
 9 okay?

10 So if that is in fact -- if we agree on that,
 11 then we have to say that to have these conversations, we have
 12 to have an agreement of terms. We have to agree on what race
 13 is, and when I say a black person, we have to know what that
 14 is. If I say a Native American person, we have to know what
 15 that is. If I say a white person or a person of color, a
 16 people of color, we have to agree on what we're talking
 17 about. If we don't, we're not talking to each other, we're
 18 talking to ourselves because we're the only ones who really
 19 know, maybe, what we mean.

20 So I want to ask you, when you think about
 21 racist, what does any one race have that all the members of
 22 that race have but no other people in that race have?
 23 Without that we do not have a definition of those people.

24 You know, there are some states, if you go in
 25 this state by this one drop rule, you're black, and you go in

1 the case in lots of places, certainly not how I grew up, they
 2 did not show up, and so I honor you for that.

3 You know, we've been having these discussions
 4 about race and diversity for some time now. I know as long
 5 as I've been able to speak English, we've been having these
 6 discussions, and I think it's safe to say that many people
 7 will say that we haven't made a lot of progress. We can
 8 debate that, but certainly we can say that whatever progress
 9 we've made is fragile, and I think evidence of that is when
 10 you have a white supremacist who is the chief strategist for
 11 the president, that says to me that your chief strategy is
 12 white supremacy, and if we're that fragile, one election, we
 13 can normalize white supremacy, then I think we can say
 14 whatever progress we have made is quite fragile.

15 So we have to ask ourselves why. Why is that
 16 progress so fragile? I would say that it's fragile because
 17 the whole conversation that we have been having is based on a
 18 false premise, and that false -- it's fundamental premise but
 19 it's false, and that fundamental and false premise is that
 20 there is such a thing as race.

21 We've been talking about race as though it
 22 actually exists. In fact, I'm going to challenge that. Now
 23 because this is still, even though we've had scientific
 24 evidence about this for years and it has been debunked by all
 25 the schools of science, but it's still controversial, I'm

1 another state, you're not. Clearly we don't have an
 2 agreement on what race and what -- we have these vague ideas,
 3 but we don't agree. So how can we have a conversation about
 4 race when we haven't really had a conversation, or we don't
 5 really agree on what we're talking about?

6 The lack of answers to that question, and believe
 7 me, I've asked this question in classrooms and in auditoriums
 8 of 1200 or more people in universities and no one has come up
 9 with an answer yet. So it means by having this dialogue, all
 10 the people who are talking about it, none of them have even
 11 asked the question, let alone answered it. Amazing what we
 12 spend all those resources on and money and energy and
 13 emotional energy, we spend all that on it and we haven't even
 14 defined terms. All we're doing is arguing, and we're emoting,
 15 but we're not solving problems because we haven't asked the
 16 right questions, and our whole concept is based on a false
 17 premise.

18 We can't discuss this without understanding and
 19 coming to some agreement of terms, so I believe the real
 20 problem that we're facing is that we all believe in the
 21 boldface lie of race. The fact that we have normalized that
 22 and none of us can tell why we believe it. We've just all
 23 been brainwashed. We believe it exists and so it exists. We
 24 have taken it for granted without testing the reality. We
 25 have not tried to pierce the veil of this reality.

1 This boldface lie of racism about that there is
 2 such a thing as race makes us each see the other as the
 3 other, and that has some real important consequences because,
 4 you see, the mind has a funny thing, it does it like a
 5 vacuum, and if I don't have something to classify when I say
 6 a white person, if I don't have something, my mind wants to
 7 put in something, and you notice that people have the most
 8 interesting ideas of other people when they have absolutely
 9 no contact with those people; never met one but they know all
 10 about them. They know everything, all of their inner
 11 secrets, and the less they have contact, the more they know
 12 because the mind does it like a vacuum and it fills it in.
 13 It doesn't care if it's garbage or not. It just doesn't want
 14 to be empty, right?

15 So what this leads to is something called
 16 profiling. When we don't know about all those people and
 17 what they like and what they like to eat and what they're
 18 doing, we make up our own profile. It's like I hire a new
 19 person and I don't do the background check and I think, well,
 20 I have to have something in the file, so I'm going to put
 21 something in the file. Let's get some of Frank's and some of
 22 Mary's and just put something in there. Ever have people who
 23 fill out a form and say, even though there's blanks and
 24 there's no answer for them, they don't leave any blanks
 25 empty? We don't leave blanks empty. We put stuff in there

1 just to fill in the blanks.

2 These boldface lies also make it difficult for
 3 cops to treat others as their best friend's kid, either as a
 4 black male or white male or any other that he's not familiar
 5 with. These lies about race create a need that he has to
 6 fill it, but he's not likely to treat that kid that he's made
 7 this profile of like his best friend's kid. He's not going
 8 to approach that person like that. These boldface lies make
 9 it very difficult for us to imagine that when an officer does
 10 have a confrontation that doesn't turn out right that it was
 11 anything other than racism. We've already profiled the
 12 officer. We've already judged that officer because we've all
 13 bought into this idea that the white police officer will do
 14 this because we believe in the idea of race and also that
 15 person might feel that, well, I'm an officer, but I have to
 16 be loyal to my race, and I can tell you, you can make any
 17 kind of, let's say, policy statements, but a person acts from
 18 what -- we are feeling beings that think, not thinking beings
 19 that feel. It doesn't matter what we say here, folks. What
 20 matters is what we feel because we will act on that.

21 I'll give you a good example. A long time ago
 22 I'm what they -- I used to be something they called negative
 23 buoyancy. It means I could get in the pool, a full lung of
 24 air and drop down. I had a hard time swimming. One of the
 25 guys who was working with me at this radio station, he was a

1 scuba diver. He was a commercial diver, and I said, I always
 2 wanted to do that, but I have a hard time swimming. And he
 3 said, oh, if you don't swim well, that's the best thing,
 4 learn to dive first and then learn to swim. He said because
 5 if you get into trouble and you're a good swimmer and you're
 6 underwater, you act like a swimmer, you'll kill yourself, but
 7 if you act like a diver, even if you're a swimmer, you'll
 8 float up to the top. That says something to me that you go
 9 from what you feel, you go from what your basic gut
 10 instincts. So I can write all kinds of policies, you can
 11 write them all day, but if the officer feels different, he's
 12 going to act different. You can fire him, but you're going
 13 to hire somebody else who's going to repeat that, so you
 14 haven't really progressed. So it's not about -- these guys
 15 are only going to have so much of a pool they can pull from.
 16 Where is that pool coming from? It's coming from us. If we
 17 don't solve this in the general population, they cannot solve
 18 it. They cannot solve it. The body cameras are not going to
 19 solve it because we haven't changed.

20 This boldface lie of race also keeps us from
 21 seeing that we're all in this together. It's not a white
 22 problem. It's not a black problem. It's not a Native
 23 problem. We all have the problem, and we're all in it
 24 together. What happens to you happens to me. What's your
 25 problem is my problem. I can deny it, but it is my problem,

1 just like the Standing Rock water thing. I live in Roslyn.
 2 We have Web Water. If that cracked, I'm drinking oil. It's
 3 my problem. It's not an Indian problem. It's a water
 4 problem, and it's my problem. I care.

5 So I think racism is not the real problem. The
 6 belief in race is the real problem. If you stop believing in
 7 race, there can be no racism, and as long as we believe in
 8 race, we will keep talking about how do we get rid of racism,
 9 but it will not go away. We will still be doing the same
 10 thing.

11 We can agree on feel good solutions. We can make
 12 high-sounding resolutions, but the belief in race will
 13 cripple. We can install body cams or car cams, but the lie
 14 of race will filter what those cameras record and what we see
 15 in those recordings because we will see them through those
 16 eyes. We can make new laws, and even change the constitution
 17 about civil rights, but the belief in race will void those
 18 guarantees.

19 The lie of race has been used to divide and
 20 manipulate us for the benefit of a few people. Those who
 21 devise and sold the lie of race knew the power of the lie of
 22 race, and now you know it too. What will we do?

23 DR. BRAUNSTEIN: Thank you, sir. Thank you. Are
 24 there any comments or questions from committee members?

25 That is a lot to take on. I appreciate your

1 testimony, and I'm reminded of the documentary, *The 13th*,
 2 that's come out. Not exactly in the same terms that you
 3 shared here today, but certainly the question of the
 4 construction of social difference for the gain of particular
 5 interests is at the core of that documentary, *The 13th*, which
 6 is of course about the exception of involuntary servitude if
 7 you've been defined by society as a criminal. So I think
 8 that you are on the cutting edge, along with the producers of
 9 *The 13th* in this conversation of redefining difference. I
 10 appreciate that, and I'm sure everyone else on this committee
 11 as well.

12 PROFESSOR TERESA STALLINGS: There's also a PBS
 13 documentary called *Race: The Difference Between Us*. It's
 14 relatively dated, but it is still totally true and dead on
 15 with what he's saying.

16 DR. BRAUNSTEIN: Thank you very much.

17 PROFESSOR TERESA STALLINGS: I recommend it to
 18 you all. You can find it on YouTube.

19 DR. BRAUNSTEIN: I appreciate that. Thank you so
 20 much.

21 Now you, sir, D.J., I know you've been patient
 22 and you had other things to do today and it is finally your
 23 turn to give testimony, but I want to make sure I pronounce
 24 your name correctly as I introduce you. Is it Mounnga?

25 MR. D.J. MOUNGA: Mounnga.

1 remain in a predominantly Caucasian region, and so the
 2 perspective that I've compiled my thoughts is that I've been
 3 at Presentation College now for five years, and I've had the
 4 opportunity to work a lot with our students of color, and
 5 gathering the perspectives that in the commentary that
 6 they've had about our community and how they have felt, and
 7 also as a person of color sharing in similar experiences to
 8 the community.

9 I've been in Aberdeen now for about ten years.
 10 My family has been in the region for probably 15 to 20 at
 11 that, so have very well been established and have seen the
 12 community grow physically, but also as some comments have met
 13 progressively in welcoming different ethnicities, different
 14 races, backgrounds to grow to who we are today.

15 I commend our Aberdeen Police Department for the
 16 work that they do and for the hard work that they continue to
 17 do to keep our community safe and to establish a safe
 18 community and by being on the forefront of law enforcement
 19 and using technology such as the body camera.

20 Now going into, when we talked about it, when we
 21 refer to our topic today is the subtle effects of racism. In
 22 South Dakota, as I'm sure it's just blatantly obvious, it's
 23 very hard to decompact, and in listening to testimony today,
 24 it's really hard to pinpoint where a specific issue is. So
 25 what I hope to offer is the experiences of many to maybe give

1 DR. BRAUNSTEIN: Mounnga. All right, thank you
 2 very much. D.J. Mounnga from student life. He is the
 3 director, excuse me, of student life at Presentation College
 4 and we welcome you, sir.

5 MR. D.J. MOUNGA: Thank you. I'll try to keep my
 6 conversation brief to allow comments from the committee, but
 7 just would like to thank you for the opportunity to address
 8 and to maybe offer another perspective as you navigate this
 9 topic, and through all the testimonies that have already been
 10 given today, I think in many different ways, we share and
 11 agree with the different perspectives and hopefully we can
 12 move forward in dialogue from this.

13 As I've been preparing for the testimony, I have
 14 been trying to also think of the, maybe constituents or the
 15 perspective that we want to align these comments with, and so
 16 I'm the director of student life at Presentation College and
 17 so I work very closely with our students and our student
 18 body, and so I think the choices of perspective that I'll
 19 give today would be from the perspective of a student.

20 Myself being, I guess you would consider a
 21 transplant to the South Dakota/Aberdeen area, formerly from
 22 Utah, by way of Hawaii, so coming from much warmer climates
 23 to South Dakota, and then choosing to stay in South Dakota I
 24 think says a lot about the community, about the opportunities
 25 that are here that would entice a person of color to also

1 at least some starting points to where we can have
 2 conversations and to find solutions, rather than just
 3 continue the dialogue and just continue as this is horrible,
 4 we want to change, we want to do this, but what types of
 5 tangible evidence do we have and what types of tangible
 6 things can we do as policymakers, as community members to
 7 make this move forward, because it is a collective effort as
 8 Mr. Diggs has said.

9 And one of the hard things that's hard to
 10 address, as the chairman from the Crow Creek Sioux Tribe
 11 said, it's hard to talk about subtle racism, when we are in a
 12 state and a part of a history that has existed in overt
 13 racism, right, and so that is probably one of biggest hurdles
 14 to probably conquer is to have this conversation and how we
 15 navigate that, but going back to our students' experiences
 16 and what they see in South Dakota and some things that worry
 17 them, I think we need to take a step back and maybe think
 18 about who these people are who are coming to be guests for a
 19 temporary time. For our students, it's either, you know, two
 20 to four years finishing degrees and hoping to return back to
 21 their home state. A lot of our students are out of state.
 22 They come from larger cities, larger, you know, communities
 23 to our smaller community.

24 So I think some of the things that is hard to
 25 address is they are coming in with prior and previous

1 experiences, and some of the things that they're experiencing
 2 could very well be a projection of their realities and not
 3 necessarily the exact reality of Aberdeen, South Dakota, and
 4 so part of the conversation is is when we talk about -- and
 5 I'll use the example, at least the context that was given in
 6 preparation is our policing. So when we talk about the
 7 policing system, we have the two sides of good cop/bad cop,
 8 and I believe in Aberdeen we have great cops. We have great
 9 police, and unfortunately for some of the our students, they
 10 come from what you see on social media, what you see on, you
 11 know, your feeds and what we've grown so accustom to be
 12 natural or everyday occurrences. These students are coming
 13 in, that is their friend, that is their family or that is
 14 themselves that experience that. So when they come to our
 15 community, they associate one with the other, and for them,
 16 it's hard to get out of a mentality to maybe stand down or
 17 bring down defenses or bring down guards when that guard is
 18 just brought down for a temporary stay and then they'll have
 19 to return to that reality.

20 So not oversimplifying this, but maybe giving
 21 some context to maybe some of the experiences and the
 22 realities that our students experience, and so I think
 23 starting from there in a community standpoint and what those
 24 answers are I think is why we're here, efforts from Diversity
 25 Coalition and I think working closer with our Aberdeen Police

1 ourselves and seeing that we can be that champion ourselves.
 2 So I think it starts with small efforts like that and trying
 3 not to do a blanket oversweeping policy or law that could
 4 possibly have minimal impact, but rather than starting at
 5 grassroots in our communities and making the conversation
 6 move forward from there. Thank you.

7 DR. BRAUNSTEIN: Thank you very much. Other
 8 questions or comments?

9 MAYOR LEVSEN: So is your normal process then, if
 10 there's friction or if there's an event or an incident, do
 11 you feel the obligation to chase down every single one of
 12 those and try to resolve it, or do your students feel like
 13 that's needed, or do they just accept the fact that that's
 14 part of being what they are?

15 MR. D.J. MOUNGA: I think it's a bit of 50/50. I
 16 think it's a work of our staff to establish those and open
 17 those doors automatically from the first time we either are
 18 meeting them on a recruiting trip or from the first time they
 19 actually step on our campus. It's having the conversations
 20 to say here's our office, here's our services, and then going
 21 out of our way beyond that to really network with our student
 22 body, and then I fortunately, I work in student conduct, so
 23 sometimes that just automatically puts people and I get a
 24 working audience automatically to have some conversations,
 25 but other than that, it's creating that open door policy and

1 Department and whatever capacities we find from here, but I
 2 think addressing and talking through and more dialogue, I
 3 think is effective in these situations. I know that is what
 4 we have found that has been helpful on our campus is more
 5 preparation for the experiences that students will see in
 6 Aberdeen, South Dakota, and trying to at least maybe bring
 7 down some of those defenses that they automatically come in
 8 and that they experience while they're here.

9 Now is that the full proof method? No. But that
 10 is something that we have found that at least allows our
 11 students to exist and feel like they belong in our community
 12 because they're here for nine to ten months out of the year
 13 and then they go home for a short stint and then they come
 14 back. So I hope that offers some guidance, at least offers
 15 some discussion in moving forward.

16 And now in my experience in subtle racism, I
 17 think it's evolved and it's a part of our everyday
 18 conversations, and a lot of these subtleties, these
 19 micro-aggressions, if you will, that come out are maybe not
 20 even things that people really realize are happening, and so
 21 part of that, also the effort is to -- us as community
 22 members is to offer up dialogue, is to point it out and not
 23 to be a bystander, and having the hard conversations because
 24 that's where it starts. We always look to others to be a
 25 champion for the conversation, rather than looking to

1 just letting students know that our services are there.

2 DR. BRAUNSTEIN: Other comments? In closing and
 3 thanking you, I want to appreciate and mention your comment
 4 about the bystander intervention. I recently encountered a
 5 very instructive video that was part of a larger training
 6 effort on Facebook that talked about a multiracial family,
 7 two sisters in particular. One appeared quite Caucasian and
 8 one sister appeared quite black, right, African American, and
 9 they noticed that they were treated very differently in a
 10 checkout line at a supermarket, and it was some of these
 11 subtle forms of racism that the training video commented on,
 12 and the problem as addressed in this video, which I think you
 13 mentioned subtly, is white people don't always know how to
 14 intervene and be effective bystanders, and this video talks
 15 about the simple contributions. You know, I don't have to --
 16 as a white man, I don't have to be ashamed or embarrassed
 17 about being white or being a man, or by the privilege that
 18 society has created for white men. According to this
 19 training video what I need to do individually to contribute
 20 is to use my privilege and use my status to level the playing
 21 field.

22 You had mentioned, sir, you know, what if I'm
 23 standing in a checkout line behind this state trooper, right?
 24 The inverse is necessary, not what the trooper said, but for
 25 someone standing behind you who's white and privileged to

1 step up for you and with you as a minority community member
 2 and say that is not what is accepted, that is not what
 3 everyone believes, and to not be a passive bystander but to
 4 intervene, and you might find this if you're interested, I
 5 wouldn't have a link off the top of my head, but it was under
 6 the title of bystander interventions in racism, right, and
 7 it's part of a broader -- it's just a three- or five-minute
 8 video clip that I've seen on Facebook. If anyone's on
 9 Facebook, I'm sure you could find it that way. But it's so
 10 important, right, to not feel silenced by your race or your
 11 gender, but rather empowered to stand up for just cause.

12 MR. D.J. MOUNGA: Yes, agreed.

13 DR. BRAUNSTEIN: So thank you very much for
 14 bringing that up. I appreciate it.

15 MR. D.J. MOUNGA: Thank you.

16 DR. BRAUNSTEIN: With that I believe we're going
 17 to have a very short break as we move into our third panel,
 18 and again, let's try to keep it to less than five minutes if
 19 at all possible. Thank you very much. We'll reconvene just
 20 before the hour.

21 (A break was taken.)

22 DR. BRAUNSTEIN: I appreciate everyone's patience
 23 and perseverance today. We are heading into and making good
 24 progress with our 2:30 panel, our state law enforcement
 25 panel, and we are going to begin our next panel with

1 a little bit about workshops and forums and some of the
 2 outreach that we're doing.

3 So briefly the U.S. Attorney's Office prosecutes
 4 or is involved in about a thousand cases a year here in South
 5 Dakota in which there is federal jurisdiction and those are
 6 broken down about 50 percent from Indian country and about
 7 50 percent outside of Indian country. So we handle and have
 8 primary jurisdiction over felonies in Indian Country, and we
 9 also have general jurisdiction in the rest of the State of
 10 South Dakota over offenses like firearms and drugs and
 11 government fraud and hate crimes and those kinds of things.

12 So generally speaking, with respect to Indian
 13 Country, a third of our cases come off of Pine Ridge, come
 14 from Pine Ridge, about 25 percent from Rosebud, about
 15 19 percent from Cheyenne River, 11 percent from Standing Rock
 16 and 9 percent from Lower Brule/Crow Creek combined and the
 17 rest of the eastern South Dakota tribes, so those are the
 18 statistics.

19 We do publish an annual report which highlights
 20 and breaks down the offenses that we're involved in, our
 21 prosecutions, gives some highlights, talks about our civil
 22 division.

23 So if you want to sue the United States
 24 government, the United States Attorney's Office is involved
 25 in defending the government. Whether we like it or not,

1 Randolph, is it Seiler?

2 MR. SEILER: Seiler.

3 DR. BRAUNSTEIN: Seiler. Thank you so much. Who
 4 is U.S. Attorney for the District of South Dakota. Mr.
 5 Seiler, we welcome you to the panel.

6 MR. SEILER: Thank you. Good afternoon. My name
 7 is Randy Seiler. I'm the United States Attorney for South
 8 Dakota. Greetings to all of you. I grew up in Herried which
 9 is about a hundred miles from here, a small town in South
 10 Dakota, practiced law in Mobridge, went to law school here
 11 and am now U.S. Attorney in South Dakota, so born and bred in
 12 South Dakota. I love our state. I'm proud of it. I take
 13 great pride and satisfaction in a lot of the things that
 14 South Dakota does and does very well.

15 With respect to the brief comments I have today,
 16 Chief McNeil called me, we also received an invitation to
 17 appear, asking us basically to comment generally speaking on
 18 the role that the United States Attorney's Office plays in
 19 South Dakota law enforcement, so I'm going to address that
 20 briefly.

21 The other request was that they wanted to know
 22 the role of the U.S. Attorney's Office in initiating civil
 23 rights matters in South Dakota, wanted some crime data, which
 24 I'm not going to get into. I brought an annual report from
 25 our office and I'll submit that for the record, and then talk

1 that's our role, that's our responsibility. The government
 2 is our client and we have an ethical responsibility to
 3 zealously represent our client and we do that, and we
 4 appreciate the relationship we have with all of the lawyers
 5 in South Dakota, whether it's Mr. Abourezk or JR LaPlante in
 6 the back of the room. We work with a number of lawyers
 7 around the state.

8 Seated to my right is Alison Ramsdell and she's
 9 going to also have a few remarks. She's the individual in
 10 the U.S. Attorney's Office that handles civil rights matters
 11 and she'll talk about those more in detail.

12 When I became U.S. Attorney a couple of years
 13 ago, the U.S. Attorney's Office was always involved in civil
 14 rights matters generally speaking, but I wanted to increase
 15 our visibility, increase our initiative and increase our
 16 presence in civil rights matters across South Dakota because
 17 I thought there was an ever increasing need to be involved in
 18 that, not just from a prosecution standpoint, but from an
 19 outreach and education standpoint in terms of whether it was
 20 the Americans with Disabilities Act or whether it was hate
 21 crimes on the criminal side, our civil rights section looks
 22 at that. We look at cases that are referred to us where
 23 there's allegations of excessive force by police officers, so
 24 it's a wide variety of programs under our civil rights
 25 section and in the U.S. Attorney's Office.

1 So just to highlight a couple of general areas of
 2 our office, we also have a designated individual in our
 3 office who's a tribal liaison is what we call him. He is a
 4 tribal member. He handles the negotiations on behalf of our
 5 office, the United States Attorney's Office as part of the
 6 United States Department of Justice, he handles our
 7 government to government relationships with all nine tribes
 8 in South Dakota. So we have that kind of relationship,
 9 whether it's negotiating or being involved in mutual aid
 10 agreements, whether it happens to be assisting in some sort
 11 of training, we're involved in training Bureau of Indian
 12 Affairs and tribal police officers. We do a lot of outreach.
 13 Troy Morley was involved in what we believe is the signing of
 14 a historic agreement. You heard Chairman Sazue talk about
 15 the agreement with the South Dakota Highway Patrol.

16 We've also entered in an agreement with the
 17 Standing Rock Sioux Tribe, the State of South Dakota, the
 18 State of North Dakota, a number of federal agencies and state
 19 agencies regarding what we call re-entry, and what that is is
 20 whether we like it or not, we're putting a lot of people in
 21 jail. Federal prosecutors are good at their jobs, but those
 22 individuals are getting out of jail at some point, and in
 23 South Dakota, that's about 400 federal felons a year that are
 24 rotating back into our society, and how do we help them? So
 25 our concern is wholistic. It's not only arresting and

1 We also fund and work closely with a pilot
 2 program on Standing Rock that addresses recurring and
 3 habitual domestic violence. We have a special assistant
 4 United States Attorney on Standing Rock and that individual
 5 is designated as a federal prosecutor in North Dakota,
 6 federal prosecutor in South Dakota, and a tribal prosecutor
 7 within the exterior boundaries of the Standing Rock
 8 reservation. So it's an amazing program, again, that
 9 incorporates, I think, the best issues and the best aspects
 10 of all of those states and all of the jurisdictions to
 11 address the issue of habitual domestic violence offenders.

12 I indicated we're involved in training. We do
 13 outreach. We've been training tribal police officers, and to
 14 some extent, state police officers in special law enforcement
 15 certification cards. We've trained them on search and
 16 seizure. We've trained them on report writing. We've
 17 trained them on preserving evidence.

18 Your chairman mentioned earlier and Chairman
 19 Sazue talked a little bit about the cancellation between the
 20 agreement between the State of South Dakota and the Crow
 21 Creek Sioux Tribe. Just, for example, over the course of the
 22 last several months, Chairman Harold Frazier from the
 23 Cheyenne River Sioux Tribe reached out to our office because
 24 there were a couple of individuals that were missing in the
 25 mist of a cold snowstorm up on Cheyenne River, and when he

1 prosecuting and convicting and putting them in jail; it's
 2 once they pay their debt to society, helping them re-enter,
 3 if you will, back into the communities, and so we've started
 4 out with Standing Rock. We've initiated a mentoring program
 5 up there for individuals that are being released from federal
 6 prison and they work with the U.S. Probation in a variety of
 7 ways to assist, but that's one of the programs I think that's
 8 a nice example, again, of states, tribes and various state
 9 agencies and federal agencies working together for an
 10 appropriate goal.

11 We also have a special assistant United States
 12 Attorney program in which we designate tribal prosecutors as
 13 federal prosecutors. We don't think every case that's
 14 committed in Indian Country should be a federal offense.
 15 It's the old adage about don't make a federal offense about
 16 it; that applies in our office. We look at it from that
 17 perspective. Can this case be better handled at the tribal
 18 court level, and we don't have to make a federal case out of
 19 it? So we look at that, we have tribal prosecutors, as I
 20 say, that are designated special assistant United States
 21 attorneys and we work with them. Not all tribes have
 22 designated individuals, but all tribes have tribal
 23 prosecutors, and we have regular consultation and discussion
 24 with them about keeping cases at the tribal level versus the
 25 federal level, if there's tribal or federal jurisdiction.

1 made that call and I reached out to a number of agencies, not
 2 one of those agencies said, "Is this on the reservation? Are
 3 they Indians? Who's missing?" The response was unilateral
 4 across the board from such diverse agencies as the FBI,
 5 Pierre Fire Department, Pennington County Search and Rescue,
 6 they were all at one time or another involved in attempting
 7 to locate those individuals, those persons.

8 Same thing last summer, there were three
 9 individuals that went missing on Pine Ridge. There was an
 10 exhaustive search. It was in the middle of summer. A ton of
 11 rumors about everything from that they've committed suicide
 12 to that they're hanging in a barn to they've been kidnapped,
 13 and again, we reached out to Pennington County Search and
 14 Rescue, the highway patrol and other state agencies, and
 15 again, the question was not, "Are they Indian, is this on the
 16 reservation?" It was, "How can we help," and so there are
 17 good examples in South Dakota where we as South Dakotans work
 18 together because of who we are, okay, because we're all
 19 neighbors in one form or another.

20 So our office is also engaged in outreach across
 21 South Dakota. We have something in Sioux Falls called the
 22 Community Engagement Initiative, and I know that sounds
 23 awfully federal. I like to call it "get to know your South
 24 Dakota neighbor," but through the FBI and through contacts
 25 with our office, we've identified 60, 70, 80 community

1 leaders in Sioux Falls from all organizations from every
 2 community, and communities can be as little as a
 3 neighborhood, a Somalian neighborhood community, you know, to
 4 the mayor. And so we have a series of quarterly meetings
 5 with them on a regular basis in which those individuals are
 6 invited to come in to meet with us, we put on different
 7 programs, and we ask them to go back into their respective
 8 communities and you know, provide education, convey the
 9 information, give them our contact information, if they have
 10 any questions they can contact us. We've had three now. The
 11 fourth one is coming up.

12 The first one was on civil rights generally.
 13 After Alison came on board, we did civil rights as one of the
 14 programs, talked about hate crimes, talked about ADA, talked
 15 about everything with respect to civil rights.

16 There were questions about how are officer
 17 involved shootings handled in South Dakota. Our second
 18 program was on officer involved shootings. We brought in the
 19 State Division of Criminal Investigation. We had our office
 20 there. We had the FBI there, and we talked about what's the
 21 process and the procedure if there's an officer involved
 22 shooting, so that was number two.

23 Number three was we highlighted the programs of
 24 the Sioux Falls Police Department because the community that
 25 we had invited was primarily from the Sioux Falls area. So

1 Ridge area with awards based on their service and their
 2 outreach to victims of crimes.
 3 So some other aspects of working together, there
 4 are several task forces working in South Dakota and these are
 5 primarily at the law enforcement level, but there are drug
 6 task forces in Sioux Falls, there are drug task forces in the
 7 Pierre area that incorporate not only federal officers, but
 8 state officers, local police officers, tribal police officers
 9 and they work together in addressing and investigating issues
 10 regarding drugs. Drugs obviously don't respect borders, and
 11 so we have programs that basically transcend those
 12 jurisdictional aspects so we can follow and investigate and
 13 convict drug pushers, okay.

14 I'll tell you right now, the methamphetamine is
 15 coming out of Mexico. I don't think that's a surprise to
 16 anyone. So trying to have a local police department just
 17 address methamphetamine within its own local community
 18 doesn't work. So obviously we take whatever we can get, if
 19 we get the small fish, we go after the small fish with the
 20 idea that we're going to have a little visit with them and
 21 we're going to talk to them and we're going to offer some
 22 incentives, we're not going to torture them, they're going to
 23 be represented by lawyers. This is within the confines of
 24 the federal criminal justice system, but they may get
 25 sentencing consideration or a plea agreement or a plea

1 the Sioux Falls Police Department basically handled the
 2 program and set forth what they're doing in the community in
 3 terms of outreach, what to do, how to do it, those kinds of
 4 programs. And our fourth program which is scheduled in the
 5 next month or so is obviously going to be on one of the local
 6 hot topics and that's immigration. So we've invited the
 7 special agent in charge for ICE, Immigration and Customs
 8 Enforcement, talking about homeland security. We're going to
 9 have prosecutors from our office that handle immigration
 10 cases. We're going to put on an informational meeting on
 11 immigration and invite whoever's interested in attending.

12 Also next Thursday night, we're having a forum
 13 again in Sioux Falls that's basically addressing issues with
 14 respect to hate crime. It's specifically targeting the Arab,
 15 Muslim, Sikh and South Asian Communities. Again, we've done
 16 outreach. We're having it at the library. We try to pick
 17 neutral sites as opposed to the police department or our
 18 office or something like that.

19 On April 6th we're going to be on Pine Ridge.
 20 We're having a community forum out there, protecting our
 21 tribal communities, responding to gun violence and its
 22 victims. Pine Ridge had, I think, 9 murders in '15 and it
 23 had 17 in '16, so we're working with the Oglala Sioux Tribe
 24 in addressing those issues. It's National Victim Rights
 25 Week. We're also honoring some individuals from the Pine

1 bargain if in turn they tell us where the drugs are coming
 2 from so that we can work our way up the drug distribution
 3 system, if we will, to get the big fish and stop them from
 4 coming through Denver and Omaha into South Dakota.

5 So those drug task forces are working in Sioux
 6 Falls, in the Pierre area. Out in Rapid City there's a drug
 7 task force. ATF also, the Bureau of Alcohol, Tobacco and
 8 Firearms has a task force that works in Rapid City that
 9 encompasses Pine Ridge and the Oglala Sioux Tribe to address
 10 issues with respect to guns, the illegal possession of guns,
 11 the illegal use of guns and guns in violent crime.

12 So there are a number of that type of program
 13 that are again in existence that we're part of, that we're
 14 proud of. I think there's a lot of good things happening in
 15 South Dakota. I don't think anybody here thinks that
 16 everything we're doing is perfect, but at the same time, I
 17 think we are addressing some of these issues.

18 And the last point I want to make is, you know,
 19 we're just not sitting up in our ivory tower federal offices
 20 at this point making prosecution decisions from Indian
 21 Country from across the state. We're out there. Our office
 22 retreats, for example, last year we went out and did
 23 community service on the Crow Creek Reservation. We went out
 24 and worked at the domestic violence shelter, made repairs
 25 there. We worked at the boys and girls club. We rehabbed

1 houses for the elderly. We walked around and picked up
 2 garbage, and it wasn't just a few people in our office, it
 3 was mandatory for everybody in the U.S. Attorney's Office, 60
 4 employees, to come to Crow Creek with me and do that, and we
 5 had a number of programs out there and addressed issues like
 6 unconscious bias. We brought in an expert on that and had
 7 programs on that in terms of making us look introspectively
 8 about what we're doing and how we make prosecution decisions.

9 This last year we did outreach in Pine Ridge.
 10 Same thing, we went to Pine Ridge. We worked at the Sioux
 11 Land Boys and Girls Club down there. We rehabbed some houses
 12 for the elderly that been burned out. We went to the
 13 Criminal Justice Training Center, which they call the
 14 People's Justice Center, and we pulled weeds, we painted
 15 benches, we did landscaping, and as part of that, we had
 16 cultural programs on Pine Ridge done by the Center For
 17 American Indian Research and Native Studies, Dr. Craig Howe.
 18 Amazing program. If you ever get an opportunity to hear him
 19 or to interact with him, he's truly amazing.

20 The last thing I want to mention is when I took
 21 over as U.S. Attorney, we had a management retreat and we
 22 didn't ignore the fact that 50 percent of our caseload comes
 23 from Indian Country and 50 percent comes from the rest of
 24 South Dakota, so we have a very diverse staff. We gathered
 25 and we talked about race. We talked about our charging

1 MR. SEILER: I have some kind of unique special
 2 status that I put out a press release on that we won't get
 3 into it.

4 DR. BRAUNSTEIN: Okay. Thank you very much.

5 MAYOR LEVSEN: I have got one quick question.
 6 Not challenging your premise, I'm just curious. You said
 7 when the tribal officials called you to contact people to ask
 8 for help, they all responded positively. Would it have been
 9 any different if the tribal official had called those
 10 entities themselves?

11 MS. BLISS: Separate. That's what I wondered.

12 MR. SEILER: I don't know, but the nature of the
 13 relationship is our office emphasizes and engages in
 14 government to government relationship with the nine tribes in
 15 South Dakota. We have a person that's responsible for that.
 16 We're sensitive to that. So I think so.

17 DR. BRAUNSTEIN: They reached out to you for
 18 help --

19 MAYOR LEVSEN: Confidence in you.

20 MR. SEILER: Yes. You know, and what I can tell
 21 you is at the government to government level, it works. I
 22 can also tell you, having been a violent crime prosecutor in
 23 Indian Country for 14 years with the office, that it also
 24 works down at the bottom, if you will, in terms of local law
 25 enforcement and tribal law enforcement getting along to make

1 decisions and how we do that and the terminology that we use
 2 and is it appropriate or is it not appropriate. I mean, we
 3 use terms like penis, like vagina. Those are everyday
 4 terminology in our office. We do a ton of child sex abuse
 5 cases. We do domestic violence. We do rapes. We do all of
 6 the other violent crimes, and the terminology in our office
 7 is Indian and Indian Country because that's what the law
 8 says, that's how we exercise our jurisdiction, if the crime
 9 occurs in Indian Country and if an Indian is either the
 10 victim or the accused. So we looked at all of that
 11 terminology to try to decide if any of that was offensive, if
 12 it was appropriate. As long as it was legal, the sense was
 13 everybody was comfortable with it, but we were sensitive to
 14 it. So we look at the law, we try to follow it faithfully
 15 and honestly, and I can tell you on behalf of the 60
 16 employees of the United States Attorney's Office, 30 of which
 17 are lawyers, that we're doing absolutely the best job that we
 18 can, but at the same time we're not perfect.

19 If you have questions or concerns that you want
 20 to ask me, here's my cell phone, you can call me any time,
 21 chew me out, ask me to come meet with you. I'm here for a
 22 while yet until this administration gets around to firing me
 23 because I'm an Obama appointee. So my cell phone number is
 24 222-8877. You can give me a call any time.

25 DR. BRAUNSTEIN: You weren't removed already?

1 communities safer. Are they sensitive and do they understand
 2 the law and the jurisdictional issues, but you know, if
 3 there's a situation in White River and the Rosebud tribal
 4 police officer happens to be the closest person, there's
 5 mutual assistance, there's mutual helping out.

6 John Steele, when he was chairman of the Oglala
 7 Sioux Tribe, they had a gang incident at one of the tribal
 8 communities, he reached out directly to the Jackson County
 9 sheriff's office and requested assistance and there was a
 10 response. So the one incidence that I can think of, yes.

11 MAYOR LEVSEN: All right. Good to hear.

12 DR. BRAUNSTEIN: Thank you. Are there other
 13 questions or comments?

14 MR. GERMAN: Mr. Chairman, I'm not sure if mine
 15 intersects with the U.S. Attorney, but it maybe touches on
 16 civil rights that I think you would be best suited to direct
 17 it as it needed to go.

18 A tribal member of mine had raised a couple
 19 issues in regard to education and some policies that take
 20 place within a school system that, as I'm hearing you talk,
 21 may touch on civil rights issues. Well, subtle forms of
 22 racism is what we're talking about. It seems that school
 23 districts are quick to diagnose Indian children with ADHD,
 24 and the diagnosis and prognosis is medication.

25 If the parent is reluctant to concur with that

1 diagnosis and the child is deemed to be problematic ADHD,
 2 then it crosses over to now it's a law enforcement issue.
 3 Now my kid is in the system and I'm deemed a bad parent. If
 4 I concur with your previous diagnosis of ADHD and I concur
 5 that you're going to medicate my child, the medication is
 6 kept at the school and it's dispensed at the school and my
 7 child comes home with a baggie of medication at the end of
 8 the day for me to dispense to my child as though I'm not a
 9 responsible parent. There again, I'm stigmatizing the parent
 10 as though I don't accept that -- the prima facie case that
 11 you're a responsible parent. You have children, but I'm not
 12 going to give you the full dosage because I don't trust that
 13 you're going to dispense it wisely or as it needs to be. I
 14 don't know if that's a civil rights issue or not.

15 Along that same thread, it seems as though school
 16 districts around Indian Country, in Indian Country, are quick
 17 to diagnose Indian kids as in need of special education
 18 services. Is that a civil rights issue?

19 Our perception is that they're quick to diagnose
 20 both ADHA and in need of special education services because
 21 there's more funds that go with that. That's a perception.
 22 I don't know if that's true. I don't know how to get to the
 23 nub of that argument or that discussion.

24 MR. SEILER: I have two quick points. One is
 25 that the father of a child with disabilities who's been

1 so I'll let her address it.

2 DR. BRAUNSTEIN: Okay. And we will get to that
 3 shortly.

4 MR. SEILER: Okay.

5 DR. BRAUNSTEIN: But not right this instant, all
 6 right. So we're going to charge ahead, if that's okay. You
 7 weren't kidding by the way. I hope all three lawyers on the
 8 panel do not conform with your expectations. That was a
 9 22-minute discussion. Not that I'm counting.

10 But next we have Christopher White who is a
 11 state's attorney for Brown County. We welcome you and again,
 12 thank you for your patience, sir.

13 MR. WHITE: Thank you. I will be under ten
 14 minutes.

15 DR. BRAUNSTEIN: I won't count.

16 MR. WHITE: The good news is I'll be short. The
 17 bad news is I'll probably be boring because I was asked to
 18 come here to specifically talk about our prosecutions and how
 19 we use the body-worn cameras.

20 DR. BRAUNSTEIN: Excellent.

21 MR. WHITE: And just specifically that, and Malee
 22 told me to stay on topic with that, so I'll try to do that.

23 Just so you kind of get an understanding, I know
 24 some people get confused when they see the title of state's
 25 attorney. I represent Brown County. We prosecute criminal

1 involved in that, in a non-Indian Country setting, Stanley
 2 County, I don't think those issues are anything unique to
 3 Indian Country. Those kinds of issues, I think, exist
 4 potentially uniformly across isolated school districts.

5 DR. BRAUNSTEIN: Uniformly across isolated school
 6 districts, what does that mean?

7 MR. SEILER: Well, I think it means that I don't
 8 have any knowledge, generally speaking, about the operation
 9 of school districts across South Dakota, and I think that if
 10 that's happening, my sense is -- I mean, I spent nine years
 11 on the school board in Mobridge. I don't think it was
 12 happening in Mobridge, at least I'm not aware of any
 13 information that was ever reported to me about that. My
 14 children went to school in Mobridge and in Stanley County
 15 which is Ft. Pierre. I'm not aware of any of those issues.

16 The IEP process isn't a process that the South
 17 Dakota U.S. Attorney's Office typically is involved in, but
 18 having said that, seated to my right is Alison Ramsdell who
 19 is the lawyer that's in charge of our civil rights section,
 20 basically which includes enforcing federal civil rights
 21 statutes prohibiting discrimination on the basis of race,
 22 color, sex, disability, religion, familial status and
 23 national origin, and among those statutes are the ADA, the
 24 Americans with Disabilities Act, Title VII of the Civil
 25 Rights Act, the Voting Rights Act and the Fair Housing Act,

1 cases on behalf of the State of South Dakota in this county.
 2 So my jurisdiction is Brown County only.

3 Our office is primarily responsible for three
 4 things; the first thing and you see the most in the media on
 5 this issue is the prosecution of criminal cases involving
 6 juveniles and adults. So juvenile cases, a juvenile is
 7 drinking alcohol all the way up to an adult that's committing
 8 a first degree rape.

9 Our second responsibility is we have the chance
 10 to represent abused children through abuse and neglect
 11 proceedings in Brown County. We have one specific attorney
 12 that does that full-time. She also focuses in on the
 13 juvenile prosecutions too.

14 Our third thing, and this isn't necessarily the
 15 fun thing, is giving legal advice to the county. You see a
 16 lot of that more in commission meetings, and I know
 17 Commissioner LaCroix probably has experienced a lot of that,
 18 and we also give legal advice to department heads in the
 19 county. So those are our primary responsibilities.

20 Our office is made up of six attorneys. We have
 21 four legal assistants and one victim specialist now that's
 22 full-time, and if you remember when the whole talk about
 23 Marsy's Law was going down during this last election, that's
 24 what brought us our victim specialist, and a quick update on
 25 that, things are going really good. It is nice to have a

1 victim specialist because it is much needed as far as being
2 able to give victims the time they need, so that has worked
3 out well for us.

4 I don't know the history of why body-worn cameras
5 came up. I do know that our Aberdeen Police Department was
6 on the front end of that. So my office, I think, in the
7 State of South Dakota has probably dealt with body-worn
8 camera evidence issues more than anything else because I
9 think we are the first county to use it.

10 My guess is the body-worn cameras came up because
11 some of that friction, or at least part of it was because
12 some of the friction between community members and law
13 enforcement. I think that's only one aspect.

14 The good news with body-worn cameras is they do
15 enhance transparency in prosecution, absolutely. They allow
16 us to do our job a lot better. They allow community members
17 to be protected. They allow law enforcement to be protected.
18 So it works out well for all parties involved. So I'll hit
19 on some of the good things and the bad things that come into
20 the evidence issues we have with body-worn cameras, and I'll
21 address the bad things first. There's really not that many,
22 but I like to give both sides of it.

23 The first thing that stands out in my mind is
24 just the resources that it takes to manage the footage that
25 you get on these body-worn cameras. We didn't really get

1 County resources are tight, so it does put a lot
2 of burden on my office to be able to manage all of that and
3 to review it. If you come into my office any time from 7:30
4 in the morning all the way till six at night, you're probably
5 going to see somebody watching an Axon camera, the body-worn
6 camera footage, be it an attorney or a legal assistant that's
7 trying to get stuff ready for discovery. There's always that
8 video going on in my office and you know it because when
9 you're watching it, for some reason, I wish they would change
10 this, but for some reason when you watch it, every 15 seconds
11 you hear a beep really loud on the screen, and if you have to
12 turn it up to listen to it, the whole office hears that beep
13 every 15 seconds, so that's just part of the software we use
14 through that company, but the resources, it is important.

15 On the flip side of that, defense attorneys spend
16 a lot of resources doing the review of this footage which in
17 turn can cost the defendant a lot of money because they're
18 paying that attorney to watch it all. It can cost the county
19 and taxpayers a lot of money because on court-appointed
20 attorney cases, ideally we get that money recouped through
21 restitution, but you don't always get it, but the county's
22 then paying that defense attorney on court-appointed cases to
23 review it all. So it does get expensive, but at the end of
24 the day it's a good thing.

25 One of the other negative things with the

1 into the policy, and I'm somewhat familiar with the Aberdeen
2 Police Department's policy on the cameras, but I think the
3 long and short of it is it's supposed to be activated when
4 they're interacting with a member of the community. So you
5 can imagine when one officer does a 10- or 12-hour shift and
6 comes in and takes that camera off their head and they dock
7 it and it downloads and goes to this computer system, how
8 many actual hours of footage we're dealing with. It's quite
9 a few. So my office has to manage that because we have to
10 review -- I'm not going to say we review all of it, but we
11 review for sure the -- the bigger cases you review all of it.
12 You just don't have the resources and time to review it when
13 it comes to misdemeanor cases.

14 Now the good news is you have that other check
15 and balance on the defense attorney side. They get all of
16 this camera footage in every single case. We send it out to
17 them, but that causes the legal assistants in my office to
18 spend a lot of time getting that prepared. Recently through
19 the program the police department uses, there's a website now
20 we can use, we can just send that link off to a defense
21 attorney and they can have access to that specific case. So
22 if there's four officers involved in that case, there will be
23 four different Axon videos is essentially what it is and they
24 have access just to that, so privacy is not an issue. It's
25 just that specific case.

1 body-worn camera, and again, minor negative point, sometimes
2 it tends to slow the criminal process down a little bit, and
3 I say that because weekly we have a case that comes up and a
4 defendant might want to plead guilty the next day after
5 they're arrested, and they get a court-appointed attorney for
6 whatever reason, because they don't always have to have it,
7 they can plead guilty on their own if it's a misdemeanor, but
8 they get a court-appointed attorney. Well, then that
9 attorney feels the responsibility, and rightfully so, that
10 they have to watch the video footage to make sure they're
11 representing their client properly, so then the case will get
12 continued out a couple weeks, so it can slow the process
13 down.

14 The last thing that sticks out to me, and you see
15 this very rarely, is when we have technology, things can go
16 wrong. They don't always work. Sometimes they malfunction,
17 but again, it's very rare for that to happen, but I've seen
18 it at least a couple times where you'll have something
19 malfunction. Either an officer shows up to a scene last
20 second and they don't have their camera on for whatever
21 reason, and we had it specifically with a person that came at
22 the officer with a weapon and instead of him thinking I'm
23 going to push my button and try to get my camera on, he's
24 reaching for a weapon to protect himself at that point, so
25 you have those issues with them. That was just the officer

1 didn't get the button pushed, but you do have a malfunction
 2 sometimes because it's technology. Sometimes they don't get
 3 docked appropriately and they might not download right. The
 4 problem I see in prosecutions when that happens is some
 5 defense attorneys will come to me and immediately say there
 6 must be some foul play going on and they want a better deal.
 7 When the fact of the matter is ten years ago and all across
 8 South Dakota right now, these cameras aren't necessarily
 9 being used, so you have to rely on an officer's report, an
 10 officer's credibility with the finder of fact as far as
 11 testimony goes.

12 So there's been times where the camera might be
 13 working and it might malfunction for some reason or it might
 14 get bumped off their head for some reason and they get it
 15 back on and you miss a snippet and you do need to rely on the
 16 officer's testimony at that point. So those are the bad
 17 things. The good things far outweigh the bad.

18 DR. BRAUNSTEIN: Can we stop you here?

19 MR. WHITE: Yes, sir.

20 DR. BRAUNSTEIN: Axon segue. Are there any
 21 follow-up questions on what was just presented? Please.

22 MS. BLISS: I just have a clarification thing.
 23 The officer brings the video to the police department and
 24 you're the first person to see it or the police department
 25 sees it, or when does that happen?

1 that these things get you out of civil cases --

2 MS. BLISS: Saves money.

3 MAYOR LEVSEN: That it saves you money on civil
 4 cases that otherwise could have been very expensive.

5 MR. WHITE: That, and at the end of the day, the
 6 transparency and the safety it provides everyone is worth the
 7 money in the long run, I would say.

8 DR. BRAUNSTEIN: And these are clearly benefits
 9 that you're going to talk about in just a minute, right?

10 MR. WHITE: Yes, sir.

11 DR. BRAUNSTEIN: Right. So are there other -- he
 12 had commented about some negative applications or
 13 implications. Are there other questions or follow-up on
 14 those points?

15 The reason why I'm taking special time to do this
 16 is because of course we've heard from the Aberdeen Police
 17 Department who is one of the nation's first agencies to buy
 18 in -- not to buy in, but to participate in a body-worn camera
 19 and we've had conversations with the police chief and they're
 20 very pleased with the performance of this program here in
 21 Aberdeen, and so I think we're hungry, I know that I am, for
 22 alternative viewpoints and I appreciate you bringing up some
 23 of the weaknesses as a result.

24 One of the things that you mentioned that I'd
 25 like to ask a follow-up question about regarding the

1 MR. WHITE: So the officer comes in, they have a
 2 room right behind these doors here where they dock their
 3 headset and it goes somewhere onto a giant server, and then
 4 our office, once we get the report, which could be --
 5 depending if the person is in custody, it could be the next
 6 day, but if they're not in custody, it could be three weeks
 7 when they have their court appearance. Then we get a report
 8 which notifies us, Aberdeen Police Department, chances are
 9 really good that there's a camera footage because they all
 10 wear those, and then we can pull that off the server and put
 11 it onto a disk and put it on a file and watch it.

12 MS. BLISS: Okay. So how much does that cost?

13 MR. WHITE: That's a good question for the
 14 Aberdeen Police Department. I'm a separate agency, but it's
 15 not cheap, I know that.

16 MS. BLISS: Yeah, because somehow they have to
 17 figure out just what you're looking for. There's a lot of --

18 MR. WHITE: Yeah, I mean it's actually easy for
 19 my office because -- and I've seen Randy come in and out and
 20 he's the evidence -- or the custodian of those records. (Loud
 21 noise.) That's what the beep sounds like on the camera when
 22 you're watching it.

23 MS. BLISS: Have them pay you for each one.

24 MAYOR LEVSEN: Just briefly when you talk about
 25 the cost, I think the presumption is in the long run, the way

1 weaknesses is, you know, you had mentioned that the clerks or
 2 the assistants that look through the cases that are in your
 3 office are limited to just those pieces of footage that
 4 relate to those cases and so your quote was "there's no
 5 privacy concerns." Can you help us understand what privacy
 6 concerns do exist in terms of the use of body-worn cameras,
 7 and be as broad and thoughtful as you can. We're not looking
 8 to undermine APD or any other agency's use; we're just trying
 9 to understand the full range of considerations.

10 So in your mind what are the privacy concerns of
 11 body-worn cameras?

12 MR. WHITE: There's quite a range. The one I was
 13 specifically talking about is when we decided, instead of
 14 burning all these videos to a disk or jump drive and giving
 15 it to the defense attorney because that was just taking too
 16 many man hours to do it, we talked to the company and they
 17 provided us some log-in where you can send them out to a
 18 defense attorney so then they can access that specific video,
 19 so that's the privacy concern that I was talking about.

20 DR. BRAUNSTEIN: Right.

21 MR. WHITE: They don't get to access everybody's;
 22 just their specific case.

23 DR. BRAUNSTEIN: But within those cases, what are
 24 the privacy concerns?

25 MR. WHITE: But within those cases, there are

1 plenty. I mean, there's officers that have it on when they
2 go to the bathroom sometimes because they forget to turn it
3 off, so that's one big privacy concern you think about,
4 but --

5 DR. BRAUNSTEIN: Nothing actionable under the
6 constitution though going to the bathroom.

7 MR. WHITE: No.

8 DR. BRAUNSTEIN: Think about privacy from a legal
9 prospective, right, I mean what forms of protected privacy
10 are at issue or even in question?

11 MR. WHITE: You know really, I think they do a
12 good enough job because under the policy it's when you're
13 interacting with a member of the community that needs to be
14 on. You don't get as many of those privacy concerns because
15 it's just like the chief said, when a camera is following you
16 around every day, you're making sure you're saying the right
17 thing and acting the right way. So it's very far and few
18 between that you see.

19 Some specific examples, you go on a domestic
20 violence call and you get to the house and there might be a
21 nude female that's showing up on that camera footage, so you
22 have to be careful with that. A lot of times there's
23 juveniles. The juvenile uses their name or you know, might
24 give the officer their date of birth and all of that's
25 showing up on the camera footage. So you have to be careful

1 cameras, but one thing that stands out from your question, it
2 sounds like you're asking that if there's a victim that's not
3 cooperative once we get to a hearing, but was somewhat
4 cooperative and gives some, essentially some statements to
5 law enforcement on the camera, can we use that at trial or at
6 a hearing? We can't because it's not testimony that came in
7 under cross-examination, and then we get into the rules of
8 evidence, and I don't think there's enough lawyers in the
9 room to get into all of the ins and outs of the rules of
10 evidence, but very rarely can we use those statements if the
11 person is not willing to testify.

12 DR. BRAUNSTEIN: And what of the other body-worn
13 camera data that's not related to victim's statement, can you
14 use that to strengthen prosecution in the absence of
15 cooperative witnesses, cooperative victims?

16 MR. WHITE: Yes, and that's kind of my next point
17 if you want me to jump into it.

18 DR. BRAUNSTEIN: Please.

19 MR. WHITE: The good aspects of the camera.
20 There's a lot of good aspects, and I'll kind of just start at
21 the beginning. We use the cameras for charging decisions.
22 What better to know if a person is walking a straight line on
23 a DUI, you know, you can look at the officer's report that
24 says they're not walking it, but you can also watch that
25 camera footage to see if they're walking that line. A lot of

1 who's getting access to that footage. We're safe giving it
2 to a defense attorney that represents a defendant, but we've
3 had defendants come in and want that footage themselves, and
4 the one thing we do not do is hand it out to just a member of
5 the public that wants it unless they represent them self
6 legally because they could end up with a nude female or a
7 juvenile on the Internet somewhere on YouTube, so we've got
8 to be really careful with that, and we have different
9 policies set up for that.

10 DR. BRAUNSTEIN: And I appreciate that and I
11 believe that that's true. Let me ask just one other
12 follow-up question about this privacy issue, and please,
13 anybody on the committee that wants to ask more questions,
14 this is important stuff, I think.

15 We know that in our community there's perhaps
16 less follow-through by witnesses and victims at the
17 prosecutorial level than anyone would like to see, anyone in
18 pursuit of justice would like to see. In lieu of having a
19 cooperative victim, does your office look to body-worn camera
20 data to kind of fill in some of the gaps, and are there
21 privacy implications as it relates to victim's rights if they
22 choose not to come forward and participate?

23 MR. WHITE: I think there could be now that
24 Marsy's Law has passed in South Dakota. It's so new that we
25 haven't really dealt with that specific issue with body-worn

1 different examples like that; assault on law enforcement.
2 Other counties have to rely on what the officer says about a
3 specific assault on that. We get to actually watch the video
4 of a fist, you know, coming towards camera and knocking it
5 off their head. So it works in our charging decisions.

6 The next step from charging decision is if you go
7 forward to grand jury or preliminary hearing, we use them as
8 evidence. You pop that video in and you get to watch it, you
9 get to show the finder of fact that video and it's as
10 powerful of evidence as you're going to have.

11 The next step after that is, you know,
12 potentially a plea agreement with the defense working on some
13 plea negotiations because the fact of the matter is not
14 everything goes to trial, and I know as a defense attorney
15 that dealt with these cameras, I would sit my client down,
16 and I know this happens still to this day, and you show that
17 person the footage and they see what they actually did and
18 they're willing to plead guilty a lot quicker instead of try
19 to fight that and explain or try to make the trier of fact --

20 DR. BRAUNSTEIN: Explain it, yeah.

21 MR. WHITE: -- think differently. So it works
22 out well. I said earlier that sometimes it slows down the
23 criminal process, but sometimes it speeds it up too. I think
24 there are many cases that don't ever go to trial because we
25 have these body-worn cameras footage that defendants get to

1 see.

2 The next step, you have motions hearings or
3 pretrial hearings, and some of the ones -- the more recent
4 evidence that we've used in pretrial hearings, we had a
5 defense attorney file a motion saying that the specific
6 client was -- they actually had an expert come in and say the
7 specific client was under a methamphetamine induced delirium
8 and they couldn't make statements to law enforcement because
9 of that, and you can use the camera footage to show their
10 actions, the words they're speaking as opposed to just an
11 officer describing on the stand this is how they acted, this
12 is kind of what they said. You actually get to watch that
13 person specifically testify to, you know, exactly what they
14 were saying is really the way I look at it.

15 The other example I can think of is we had a case
16 where a motion to suppress some statements was filed, meaning
17 that the individual that made the admissions about this crime
18 to law enforcement didn't waive his Miranda warning because
19 English was his second language and he didn't understand the
20 warnings law enforcement gave him. So we got to take the
21 camera footage from the officer that arrived on scene to a
22 very heated situation right away and interviewed this person
23 and this person's speaking English pretty good, really good
24 actually, and then you know --

25 DR. BRAUNSTEIN: Pretty well, don't you mean.

1 screaming and crying, and he's narrating it all and we get to
2 put on a giant screen for 12 jurors to sit there and watch,
3 and the officer is saying it looks like a two-year-old little
4 Native American girl, it looks like there's blood everywhere
5 and he's kind of narrating it for his other officers that
6 were his backup, and he says we need to make entry, we need
7 to make entry, so he ends up breaking the door down.

8 They go in and when he comes in, that little girl
9 comes running out in front of him and she's screaming and
10 crying like you've never seen before, and I can explain it,
11 but when you actually watch it at a trial, it's something
12 else, and he looks up to the couch and he sees her
13 7-month-old little sister laying on the couch crying too, and
14 at this point he scans around the house and there's blood
15 everywhere, you can see puddles of it, blood spatter on the
16 walls. He goes into the kitchen to find these two little
17 girls' mom laying there with her throat completely slashed
18 open and she's gasping for air and for life, and he gets down
19 and he puts his hands over her throat and he tries to stop
20 her from bleeding, and we're literally feet from this, you
21 know, footage because the jury is seeing it on the camera
22 because it's following his eyes. He does all kinds of
23 lifesaving measures. They clear the house. You see other
24 officers around him trying to clear the house for safety
25 purposes, and you get to watch the paramedics come in and try

1 MR. WHITE: You got me.

2 DR. BRAUNSTEIN: Gotcha on that one.

3 MR. WHITE: Yeah, maybe I could do a motion to
4 suppress my statements.

5 DR. BRAUNSTEIN: Sorry, my mother's a tough one.

6 MR. WHITE: So you get that footage, the real raw
7 footage when they don't have the chance to necessarily plan
8 out a defense and you get to put that on for the judge and
9 the judge gets to see those statements and gets to make a
10 ruling based on that, so it's really helpful.

11 And then the last example is when it goes to
12 trial. I still don't know what agencies all use the cameras,
13 but I think we're probably the only agency that's ever
14 actually had footage at a first degree murder hearing of --
15 from a body-worn camera, and specifically we had a murder
16 case in Ft. Pierre, the venue got changed, so we were Mr.
17 Seiler's neck of the woods, and the first officer on scene to
18 this call is looking through the window of the house where
19 they've been told that somebody just got stabbed there and
20 you got a picture of this officer, I would put him up against
21 any officer in the state as far as muscle mass, he's one of
22 the biggest guys you'll ever see, and he's got this camera on
23 his head and he's looking through the window and he can see a
24 little two-year-old girl running around in this absolutely
25 horrific bloody crime scene, stepping in the blood everywhere

1 to save her. You get to see it all live. It's something
2 else, but that's the type of footage we get to use at trials.

3 So the good, I said, outweighs the bad,
4 absolutely, but at the end of the day, my job is to protect
5 the community and to make sure that everybody's abiding by
6 the law, and there's no doubt in my mind that the body-worn
7 cameras help me do that, that's for sure.

8 DR. BRAUNSTEIN: Now I know that we did not
9 intend to have only prosecutors provide testimony, but can I
10 just ask you, sir, do you feel that a defense attorney, if
11 they were here today would agree that --

12 MR. WHITE: Absolutely. That it's good? Sorry
13 to --

14 DR. BRAUNSTEIN: Well, yeah, yeah, because I
15 mean, I think that on balance you're saying that there are
16 some concerns, but on balance it's quite beneficial, and I'm
17 not asking you to be a defense attorney for us today, but
18 just what are your impressions?

19 MR. WHITE: I was a defense attorney that dealt
20 with these cameras at one point and it's absolutely a good
21 thing. It gets the truth. You get to the bottom of things a
22 lot quicker. You get -- you know, and there's a difference,
23 the officers wear them because they're in uniform.
24 Detectives don't wear them. They use their recorders to make
25 all their recordings, but before those cameras, an officer

1 didn't take his or her recording device with them, that's not
 2 the way it worked. They would interview somebody and make
 3 notes of it. Now it's right here. They get to sit down and
 4 they get to type their reports based on what they're seeing,
 5 so if their report -- and what they're hearing. So if their
 6 report's not accurate, a defense attorney can beat them up
 7 pretty bad because they have no reason not to write an
 8 accurate report at that point.

9 DR. BRAUNSTEIN: Right.

10 MR. WHITE: So I think defense attorneys like
 11 them, I really do.

12 And you have impeachment evidence on witnesses
 13 that might get up on the stand and not tell the truth.
 14 Instead of calling an officer to impeach that person's
 15 testimony, a defense attorney can just bust that video out
 16 and say this is you saying this, why are you saying something
 17 different today.

18 DR. BRAUNSTEIN: Okay. Thank you for sharing
 19 those reflections. Just one -- yeah, go ahead, please.

20 MS. BLISS: Have you any experience where using a
 21 body camera has come to a different conclusion with someone
 22 who has a serious mental illness and the situation changed
 23 because of that?

24 MR. WHITE: Thinking back, I can't think of
 25 anything specific, but more broadly, there's plenty of times

1 tape some place that I've come into contact with the chief's
 2 officer some place, was acquitted of a crime, potentially
 3 that footage could float and find it's way to the Internet,
 4 theoretically?

5 MR. WHITE: Then there's a leak in my office if
 6 that happens.

7 MR. GERMAN: Only yours, or the police
 8 department?

9 MR. WHITE: I don't know how they --

10 DR. BRAUNSTEIN: Or a hack on the server.

11 MR. GERMAN: Or a hack on the server, that's why
 12 I asked the question. But if I'm acquitted, why does the
 13 record continue to exist?

14 CAPTAIN McNEIL: To explain the system a little
 15 bit better. It's an incredible system. I am not a highly
 16 technical person, but as Chris was talking about, when the
 17 officer is done at the end of the day, they go in a secure
 18 room and they plug it into basically a receptacle. That
 19 receptacle electronically sends it to an amazingly encrypted
 20 server in California where other agencies like the CIA and
 21 different places have their data, so it's incredible. There
 22 is absolutely no way that you can tamper with this. There's
 23 an audit trail with anything that you'd ever do with this.
 24 So there's no way, I mean, that you can tamper or remove, and
 25 like Chris was -- I would be -- you know, to me it's

1 you watch -- we make the charging decisions at my office.
 2 You watch the footage and you make a different charging
 3 decision because we get to play Monday morning quarterback
 4 and get to sit back and watch it and get our law book and do
 5 the research. The person might be booked in on a different
 6 crime because the officer that's there dealing with it, he or
 7 she may take them to the jail and book them on something
 8 different because it was in the heat of the moment. So
 9 there's plenty of times that you watch the video and you come
 10 to a different conclusion, if that answers your question.

11 DR. BRAUNSTEIN: Thank you. Yes, sir.

12 MR. GERMAN: Mr. Chairman, expanding on your
 13 privacy consideration question, what happens to the filmed
 14 evidence of people who are acquitted?

15 MR. WHITE: Good question. I don't know what
 16 happens with the server, and the police department, I don't
 17 think it matters if they're acquitted or not because there's
 18 plenty of cases where they have footage on that server where
 19 there's no charges that ever even come up, so I don't know
 20 how long they keep it.

21 My office, we have our files and we have a
 22 certain policy, and actually there's state statutes and state
 23 law that tells us how long we have to keep files, so we keep
 24 it all in a file at our office and it's under lock and key.

25 MR. GERMAN: If theoretically Scott German's on

1 impossible that somehow that video would leak out, other than
 2 your own defense attorney, you know, if your defense attorney
 3 had that video, the only potential problem is if your defense
 4 attorney wanted to, he could put it on YouTube or something
 5 like that, but I think there's a code of ethics and different
 6 things that prevent that so...

7 MR. WHITE: It's really no different, Mr. German,
 8 than the actual police report. Same thing, if you were
 9 acquitted of something, how could that police report get out?
 10 Defense attorneys have access to all of that because they
 11 represented you, but that's why we have a policy in our
 12 office that the defense attorney can't give out copies of
 13 that. You can review it in their office, but they can't give
 14 it out because we have seen stuff get out before that policy
 15 was in place.

16 DR. BRAUNSTEIN: Please.

17 MS. KINGMAN: Something's been bothering me I
 18 guess in my mind because we're talking about subtle racism.
 19 I do believe in the cameras, I would support that for Rapid
 20 City, but if we're talking about subtle forms, Randy, you
 21 prosecute and you convict, but what about -- and I guess
 22 we're getting to Ms. Ramsdell here, but the subtle forms that
 23 still affect people's lives and may leave really, you know,
 24 trauma with them, but they're not convictions, but they're so
 25 subtle and it's racism but it's not a crime. I mean, it's --

1 it would be I guess -- I mean, like when we had the hearing
 2 many years ago in Rapid City and they asked for people to
 3 talk about racism, it was really hard to explain because, you
 4 know, they would say, well, I walk into a store and the
 5 people follow me around, the clerks follow me around because
 6 they think I'm going to steal something just because I'm
 7 Indian. I mean, that's a subtle form. It's not a
 8 convictable crime but it causes a problem, and so I guess
 9 that's what's bothering me because we're talking about
 10 several things here. We're talking about crime and then
 11 we're talking about racism that's inbred and needs to be
 12 fixed because it's stereotyping and it's not -- it is
 13 discrimination.

14 DR. BRAUNSTEIN: Just to make some sense out of
 15 that, I would think that one of the things we're doing
 16 broadly, without mentioning it, is a cost benefit analysis,
 17 right. So we heard about the Aberdeen Police Department's
 18 efforts to train, to correct bias that is according to the
 19 policy and the video that you shared from the fellow with the
 20 New England accent, Ryan, that's outside the boundaries of
 21 acceptable behavior. So that would be the benefit, right.
 22 The cost I'm trying to probe for, are there privacy concerns,
 23 are there potential misuses of evidence and so on. So I
 24 think that broadly understood the way that I'm kind of trying
 25 to track it through my mind is like a cost benefit analysis.

1 constitutional rights.

2 DR. BRAUNSTEIN: Well, not hate speech, right, I
 3 mean we're going to talk about ignorance bordering -- well,
 4 hateful, right, I mean so there would be some action that
 5 could be taken there. It's not just a liberty to say
 6 whatever you want, right.

7 MR. SEILER: Generally speaking, yes, you cannot
 8 say whatever you want. I mean, obviously threats. Oliver
 9 Wendell Holmes said shouting fire in a crowded theatre --

10 DR. BRAUNSTEIN: Fighting words, right, if I'm
 11 going to compel you to respond violently.

12 MR. SEILER: Yeah.

13 DR. BRAUNSTEIN: I want to thank you,
 14 Christopher, you've given a lot of testimony, and Ms.
 15 Ramsdell, I want to get to you too, but first I want to
 16 recommend headphones for the viewing of this video data so
 17 you don't have to hear these beeps.

18 MR. WHITE: It's even worse then because then it
 19 blows up in your ears.

20 DR. BRAUNSTEIN: Well, it's only one person
 21 taking the hit.

22 UNIDENTIFIED PERSON: Expendable person.

23 DR. BRAUNSTEIN: Yeah, yeah, get somebody that
 24 you don't like too much to sit there.

25 Lastly, and I hope I'm not cutting you off.

1 The subtle forms of racism can't be resolved through the U.S.
 2 Attorney's Office. It could be resolved through the police
 3 chief's office though if law enforcement is engaged in subtle
 4 forms of racism, and with that, it may be the case that you
 5 see more public complaints if there's video data that shows,
 6 no, this person was -- this officer was harassing me, was
 7 acting inappropriately with me, and although maybe again
 8 you're not going to wind up with a prosecutor on your side
 9 for this because it's not unconstitutional forms of racism,
 10 it's just ignorance. I shouldn't say just ignorance, but it
 11 is ignorance which is not actionable under the constitution,
 12 so I don't know if that helps. That's the way -- are there
 13 others that have a response to that?

14 MR. SEILER: Gay, I think within the context of
 15 the U.S. Attorney's Office we work hard to eliminate any
 16 forms of racism, subtle or not. Not every obnoxious racist
 17 act rises to the level of a constitutional or statutory right
 18 violation in terms of the involvement of the U.S. Attorney's
 19 Office. We have a saying sometimes that we say, "Awful but
 20 lawful," and that's the nature of, I think, our constitution
 21 of our First Amendment, and those of us that are lawyers at
 22 the U.S. Attorney's Office and prosecutors and the Brown
 23 County State's Attorney's office, the First Amendment means
 24 something also in terms of people being able to freely
 25 exercise their freedom of speech and their other

1 MR. WHITE: I'm finished. Thank you.

2 DR. BRAUNSTEIN: But we're going to move forward.
 3 Lastly, and importantly, we're going to hear from Alison
 4 Ramsdell. Did I pronounce your name, right?

5 MS. RAMSDELL: Ramsdell.

6 DR. BRAUNSTEIN: Ramsdell, excuse me. Who's an
 7 Assistant U.S. Attorney for the District of South Dakota.
 8 We've already heard that you're something of an expert in the
 9 civil rights area within that office and we appreciate you
 10 coming today.

11 MS. RAMSDELL: And I'll make quick work of this,
 12 Chairman.

13 DR. BRAUNSTEIN: Don't feel rushed, please.

14 MS. RAMSDELL: And I'll try to answer your
 15 question in doing this.

16 So our office approaches civil rights from three
 17 perspectives. First is we investigate allegations of civil
 18 rights violations, and so I would never -- I take a lot of
 19 phone calls, but I would never on that phone call say yes,
 20 that is discrimination, or no, that's not discrimination. We
 21 always encourage people to write in their complaints, to give
 22 us a written complaint to what happened to them because we
 23 don't want to mischaracterize what happened because that's
 24 where you make room for subtle forms of racism or other types
 25 of discrimination when I put my spin on it. So we want our

1 constituents to write their own complaints which we will then
 2 investigate from a third-party mutual perspective using our
 3 resources which include civil rights experts in Washington
 4 DC. In the case of education complaints, the Department of
 5 Education has an office of civil rights. So when we get
 6 those complaints in written form, we use all of our resources
 7 so we can make sure that it's as neutral as possible.

8 The second way we approach civil rights is when
 9 they can't be resolved through an investigation and an
 10 agreement, we do bring lawsuits against private parties. We
 11 bring lawsuits against state governments, cities, schools.
 12 We currently have three lawsuits pending against private
 13 parties; one is for the protection of a veteran's rights who
 14 was unlawfully terminated from her job because of her status
 15 as a veteran, and we have two lawsuits under the Fair Housing
 16 Act pending; one where a man was discriminated against for
 17 his disability, and another where a female was discriminated
 18 against for her gender and her status as a mother. So when
 19 there's no other recourse, we have to file a lawsuit. That's
 20 the last resort.

21 Our favorite thing to do is the third which is
 22 outreach, and what I think is most impressive about our
 23 outreach is we don't pretend to be the experts in areas where
 24 we are not the experts. We are the experts when it comes to
 25 federal statutes, the U.S. Constitution, but when we go into

1 talk to us about their experience in the community. Last
 2 June, it was pride month and so we invited the Center For
 3 Equality to come and talk to us about their experience.

4 There's a couple more examples of outreach where
 5 we don't pretend to be the experts. This last January we
 6 went to a teacher inservice that included eight different
 7 rural schools. I'm from Flandreau. I continue to live in
 8 Flandreau though I drive in Sioux Falls every day, so I think
 9 rural community outreach is really important.

10 MR. GERMAN: Your father has a nice house.

11 MS. RAMSDELL: Oh, thank you.

12 So we went into the schools, the in-service was
 13 just for these eight rural schools, and we talked about
 14 bullying in schools, harassment in schools, and I talked
 15 about the implications for schools if they don't respond to
 16 bullying and harassment, whether it be racial harassment or
 17 sexual harassment. There are consequences if schools just
 18 push that away, legal consequences, but we brought in a woman
 19 who had an experience growing up where the school didn't
 20 address the discrimination and it led to self-harm and harm
 21 of others, and so for those who the legal consequences
 22 couldn't speak to, she had a human story, and then if neither
 23 of those spoke to the teachers, we had a teacher who deals
 24 with this stuff on a regular basis in the Sioux Falls school
 25 system talk about their experience and how you can become an

1 these community engagement initiatives to, say, talk about
 2 officer involved shootings, we don't -- I don't know what
 3 it's like as a black man to be in a community where this is
 4 happening, so we ask organizations who have that story to
 5 come in and share that story. So our outreach is always
 6 inclusive; it's not us just sharing information. We do that,
 7 we've written letters to summer camps about their obligations
 8 to children about diabetes under the ADA. We've gone into
 9 polling places and investigated whether or not they were
 10 accessible to people with disabilities. And as I have said,
 11 we investigate state, local governments for allegations of
 12 discrimination, but when we go to do outreach, if it's
 13 anything beyond the law, we bring somebody else in to talk
 14 about that aspect.

15 That's what next week's forum is about. We'll
 16 talk about the hate crime law, the Shepard Byrd Act, and the
 17 FBI will be there to talk about how they investigate
 18 allegations of hate crimes, but then we will have a panel of
 19 individuals from the Muslim, Arab, Sikh and South Asian
 20 communities talk about their experience with bias motivated
 21 crime, subtle forms of racism, all the way up to hate crimes.

22 And then we are also very conscious of what our
 23 office needs to know to avoid those subtle forms of
 24 discrimination and so we do a lot of in-reach. We as an
 25 office monthly watch TED Talks or invite organizations in to

1 ally, a support system in the school for our most vulnerable
 2 population, right, our kids.

3 So that's a quick overview of our approach of the
 4 civil rights in the U.S. Attorney's Office, and I hope I
 5 averaged us out so we weren't too much over our 20 minutes.

6 DR. BRAUNSTEIN: No, we want to hear from you
 7 whatever you have to say.

8 MS. RAMSDELL: It's good.

9 DR. BRAUNSTEIN: Yeah, you're good?

10 MS. RAMSDELL: Yep.

11 DR. BRAUNSTEIN: Okay. Well, thank you for that.
 12 Are there follow-up questions? Yes.

13 MAYOR LEVSEN: I have a question. We assume that
 14 when some of our non-English speakers or people with limited
 15 English ability are calling people to rent, that they are
 16 being dissuaded from that even though it is still available,
 17 and that was going on with Native Americans 50 years ago when
 18 I was at Northern and they would enlist white people to help
 19 them rent apartments. So, you know, we're assuming that
 20 happens. Does the Department of Justice, the attorney's
 21 office, do you affirmatively test markets to see if that's
 22 happening, or do you come in only when requested, or does
 23 that depend on the individual to file the complaint
 24 themselves?

25 MS. RAMSDELL: Both. When we're aware that a

1 community might be subjected to those kinds of discrimination
 2 in housing, Rapid City, we might affirmatively take on a
 3 testing program. We'd be less aware in a community like
 4 Aberdeen and so it would then be more of a response, but we
 5 do a testing program. Attorneys can't be the testers, but
 6 the Department of Justice has a program, we have people in
 7 our office trained to engage in that program and we'd be
 8 happy to help.

9 MAYOR LEVSEN: Enough of a threat at least, as I
 10 understand it, if that is proven to be a fact, it's a fairly
 11 severe penalty, or can be?

12 MS. RAMSDELL: It can be.

13 MAYOR LEVSEN: Yeah.

14 DR. BRAUNSTEIN: And did I hear you correctly
 15 that there was such an evaluation done in Rapid City?

16 MS. RAMSDELL: Not in recent history.

17 DR. BRAUNSTEIN: Were you giving it as an example
 18 when you said Rapid City?

19 MS. RAMSDELL: An example. Well, that's a
 20 situation where we would possibly affirmatively take one
 21 because we know historically there's housing discrimination.

22 DR. BRAUNSTEIN: Oh, and that's what you meant by
 23 Rapid City. Now I understand. Okay. Thank you.

24 MR. GERMAN: Mr. Chairman, just something to
 25 build on the mayor's remarks there. I've been fortunate that

1 especially when you're probably at a vulnerable or
 2 marginal --

3 MS. RAMSDELL: Right.

4 DR. BRAUNSTEIN: -- status to begin with and the
 5 time and the emotional commitment to do that is --

6 MS. BLISS: I'm just going to say it generally
 7 happens in Sioux Falls only if the person either has an
 8 advocate or they talk to the city and they see and they'll go
 9 with them.

10 The other subtle one and subtle thing that I know
 11 now in Sioux Falls right now are people that need housing and
 12 they have young children, and the moment that they hear they
 13 have young children, it's taken or someone just dropped in
 14 from, you know, some place and took that unexpectedly, and
 15 then we continue the cycle of children not being housed, and
 16 you know, I can understand, you don't want little feet above
 17 your heads and stuff, but what it -- the ultimate result is
 18 the person goes to a marginalized place that isn't suitable,
 19 and it's just there. It's very difficult to see.

20 DR. BRAUNSTEIN: And we anticipate focusing more
 21 carefully on this issue of housing in our upcoming meetings,
 22 right, in a similar way that we have tried to focus at least
 23 part of our discussion on body-worn cameras and their
 24 benefits today.

25 MS. RAMSDELL: Can I say one thing about that?

1 that's my name and I don't -- my home address is Peever,
 2 South Dakota and it's not Agency Village and I'm not Long
 3 Hair. I mean, you know, that's something that I've
 4 understood and appreciated that I don't get judged over the
 5 phone and correspondence that I'm some crazy Indian asking
 6 for something, because when somebody sees that name and the
 7 address is Peever, not Agency Village, they think it's just
 8 another John C. Public. I mean, and I've used that to my
 9 advantage with state agencies requesting information, and I'm
 10 not saying that they wouldn't give it to me, but they're
 11 certainly more likely to give it to me when it's Scott
 12 German, Peever, South Dakota; not Scott Long Hair, Agency
 13 Village, South Dakota.

14 MS. RAMSDELL: So in that -- we've heard of the
 15 situation happening in Rapid City where somebody with a last
 16 name that indicates they might be Native American calls and
 17 they're told that there's no availability. That would be a
 18 situation where we see this could be a good market to test,
 19 or also that individual could file a complaint with HUD and
 20 if it's going to be an individual case, they have to file the
 21 complaint and go through the administrative process. We
 22 can't force anybody to bring a suit. Certainly it would go a
 23 long way if somebody would be willing to go through that long
 24 arduous process, but it's difficult.

25 DR. BRAUNSTEIN: Yeah. It's a tough one though,

1 DR. BRAUNSTEIN: Absolutely.

2 MS. RAMSDELL: Certainly there are people who are
 3 doing this intentionally. I've gone along with HUD's agents
 4 in Sioux Falls to homeowner association meetings, and there's
 5 also situations where people aren't aware of the Fair Housing
 6 Act. Even though it's been around 50, 60 years, it's news to
 7 them, so that's an area where I think education can go a long
 8 ways. Certainly there's these intentional, malicious things
 9 happening, but there's also a gap in knowledge.

10 MS. BLISS: I don't really like slum words, but
 11 the mom and pop rental owners are so close on the margin to
 12 being put out of business, but they really can have a little
 13 bit of leniency where really big corporations don't have that
 14 leniency, and boy, week after week, the line gets longer for
 15 people that have ultimate barriers that are too big to
 16 overcome to get housing.

17 I was going to take a moment with Randy. You
 18 were on a school board. I was on the Sioux Falls school
 19 board. The cities that have special education programs in
 20 the school districts are magnets to the rest of the state,
 21 and you'll often find people in small towns, you know, the
 22 child gets born, you know, a situation comes along, something
 23 comes up that they do need special education and the district
 24 is so small that they can't provide it, and then there
 25 becomes a conversation, well, if you lived in one of these

1 towns, there would be ready resources maybe even at your
 2 neighborhood school and so then people are coming to the
 3 resources because of their children, much like people when
 4 they're older move to a town that's got a lot of medical
 5 services. And it's kind of been -- it's a one way kind of
 6 thing that people are looking for the best services for their
 7 children in special education, and rather than having no
 8 attention, you know, to it, and isn't the issue on medicines
 9 for ADHD is that they're readily marketable and people are
 10 stealing them and that's why they're in schools in locked
 11 cases?
 12 DR. BRAUNSTEIN: Not in my school, not in
 13 Vermillion, South Dakota. And I was going to comment after
 14 this comment was over -- and my son has a severe case of ADHD
 15 and Turrets and he cannot take medicines because it
 16 exacerbates his Turret syndrome. He has ticks that are
 17 escalated by the medicines, but no one from the school cares
 18 about what medicines my son's taking. They all know from the
 19 time he was in kindergarten that he has ADHD, and he's one of
 20 those more severe cases and some teachers let him walk around
 21 in the back of the room so he can kind of burn energy and pay
 22 attention to what's being said. But Vermillion school
 23 district, Vermillion middle school, elementary school, both
 24 of them, they couldn't care less. You know, there's no
 25 program that would regulate his medication, and I couldn't

1 into one. Both are focussed on community input, and we are
 2 going to begin with Professor Teresa Stallings. I hope I
 3 have pronounced your name correctly.
 4 PROFESSOR STALLINGS: Um-huh, perfect.
 5 DR. BRAUNSTEIN: Teresa is an Associate Professor
 6 of Sociology at Northern State University and is going to be
 7 sharing the results, or at least some of the results, from a
 8 survey on the use of body-worn cameras and will be submitting
 9 her entire work for the record, so we'll be able to share
 10 that in our final report as well. Thank you.
 11 MS. BLISS: This is of Aberdeen?
 12 PROFESSOR STALLINGS: Yes.
 13 DR. BRAUNSTEIN: Excuse me. Northern State
 14 University is here in Aberdeen, that's correct.
 15 MS. BLISS: But her survey is of Aberdeen?
 16 PROFESSOR STALLINGS: Is of Aberdeen.
 17 DR. BRAUNSTEIN: We're going to hear more about
 18 it right now, so thank you.
 19 PROFESSOR STALLINGS: Yes, so I'm going to be
 20 short, both figuratively and literally. Anyway, what we're
 21 going to do here is first I want to clarify, it's not -- we
 22 didn't have a survey just on body-worn cameras. I don't
 23 think -- this was in 215 when we did it, 2015, and so what we
 24 did is looked at community policing and community
 25 perspectives on the job police were doing and how they were

1 help but think, you know, it's an affluent, relatively
 2 affluent community in Vermillion. I know we have poverty,
 3 but we have lower levels of it. To hear about Chamberlain
 4 from Chairman Sazue before, it's like Vermillion is not even
 5 close to those rates of school lunch programs and things like
 6 that, and so I can't help to think but the -- you know, and I
 7 have an intimate knowledge with the treatment of ADHD kids in
 8 the Vermillion Public School District. It's just, I think
 9 that they leave it up to the parents because they regard me
 10 as --
 11 MR. GERMAN: Competent.
 12 DR. BRAUNSTEIN: Competent.
 13 MS. BLISS: Subtle form of racism.
 14 DR. BRAUNSTEIN: We'll talk about this later
 15 perhaps more, but I think it's an important issue that we
 16 might want to look into, again in our second and third
 17 meetings that are off the law enforcement particular focus.
 18 Thank you, all three of you, for your fine
 19 testimony and your patience in waiting for today. Let's take
 20 another 10 minutes. I know it says on the schedule 20. I'm
 21 going to give you 7. We'll call it 10 and we'll be right
 22 back.
 23 (A break was taken.)
 24 DR. BRAUNSTEIN: All right. So we are going to
 25 convene with our last panel we have our agenda combined, two

1 treating the public. So it is -- since body cameras are a
 2 form of community policing, yes and no.
 3 But anyway, it started out with Chief McNeil
 4 approached Northern State University about doing a community
 5 survey of public opinion as to how the Aberdeen Police
 6 Department was doing, not just in fighting crime but as being
 7 a part of the community. So of course he goes to the
 8 administration at Northern and we know what flows downhill
 9 and it hit me, but I teach research methods at Northern, so
 10 my class got to participate. I love my classes to do
 11 hands-on and there's nothing better than cold calling people
 12 and knocking on a strange door and asking them to do
 13 something. So it was good for all parties concerned.
 14 Now why community policing? Well, that has been
 15 one of Chief McNeil's, from my understanding, big thrust here
 16 and that was, like I say, part of his emphasis on body
 17 cameras and transparency because with community policing, we
 18 engage the community. Social safety is not a police problem;
 19 it's a community problem, and so that means that the
 20 community has a responsibility, as well as government.
 21 So if we engage the community and they are part
 22 of it, they will have a much better relationship with the
 23 police department, but conversely, negative public opinion,
 24 negative impressions of the police department can lead to
 25 resistance and fear of police. So research has shown that

1 it's good to do research about attitudes toward police to
2 take the poll to the community so the police can see what it
3 is they may need to change, what they need to keep, and so
4 this was the purpose.

5 Now one thing we find is -- and this gets back to
6 something Mr. Diggs was talking to us about, race. Police
7 have no control over the race or the gender or the ethnicity
8 or any of the ascribed characteristics of the population they
9 engage with, okay. That's just whatever it is, that is what
10 they have, but one thing the police can do is determine how
11 they engage, and so what we look at is how do we dispense of
12 preconceived notions, not just the police, of the population,
13 but the population and the police, what the population
14 perceives about how they're going to be treated by the police
15 and what the police believe about them.

16 Police can affect the officers' preconceptions
17 through training, through discipline, so that police don't
18 act differentially to someone because of an ascribed
19 characteristic or an achieved/less achieved characteristic,
20 so the police can do something there, but how do they then
21 change some dynamics with the populus. Well, one way is to
22 engage the populus in social safety, and part of the survey
23 we looked at is we -- there's a number of community programs
24 that have now been instituted and we looked at the public's
25 recognition of these programs. Did they know they existed,

1 at -- okay, one thing to really win the public over is by
2 showing respect and that's one of the things we don't show
3 with subtle racism, okay. How do we show the public
4 regardless of any of their ascribed social characteristics
5 that you are respected as a human being regardless?

6 Well, the police department does that and they
7 have to -- one thing that guides them is procedure, okay,
8 they have a procedure, identify themselves, treat you like
9 this, tell you what you're charged with or whatever, why I'm
10 engaging you. So they do that through procedure, and the
11 Aberdeen Police Department does a very good job of that.

12 The one thing the public does identify as
13 being -- as the police department being a little less
14 effective at was showing compassion, feeling the public's
15 pain when they're called. You know, and the thing is though,
16 we have to realize and this will be -- when I end this short
17 but sweet presentation, is that a lot of the calls to the
18 police department are not about a crime. We've spoken about
19 mental illness here and other calls complaining about
20 neighbors, things that are perceived but not really anything
21 -- we've turned over a lot of duties to the police department
22 without the training and the personnel to handle it, and so
23 the public walks away dissatisfied with the impression that
24 you don't treat me right because I'm mentally ill, you don't
25 care, or you don't treat me right because of the color of my

1 and we found out that very few did. One of the outcomes of
2 the survey, which was an unintended outcome, but a positive
3 one, is it notified the public of what these programs were
4 and I think since then, their Facebook page has been utilized
5 far more heavily as the public helping with law enforcement,
6 so this was an unintended consequence.

7 Now when we looked at changing preconceived
8 notions through training, through community engagement of the
9 police being more visible, coffee with the cops, okay. Then
10 we looked at how to dissuade people from having these
11 preconceived notions about how police are going to treat them
12 due to responsiveness to public needs, and in our survey,
13 what we found was that the public thought that the Aberdeen
14 Police Department was good at making Aberdeen a safe place to
15 live, 86 percent said that. Responding to calls in a timely
16 manner, 82 percent said that, and responding to citizen
17 inquiries which is very big about responsiveness and
18 81 percent said that. So we've got some real engaging data
19 there.

20 Now engaging community and police programs, well,
21 that's what we talked about. Now they have a better -- the
22 police department is doing a better job of publicizing those
23 in the paper, but we know less people are getting the paper,
24 so they have to be more creative. Once we get them on
25 Facebook, then they can go to other sources, but when we look

1 skin, you know, if I was a white person or I was this or
2 that, and so as we turn over these duties to the government
3 and expect them to do it, then without the training and
4 without the resources, it's not a police problem. It's a
5 community problem, and so that's where I think that
6 negativeness comes in. It's not overwhelming, it's not a
7 huge result, but it stands out in contrast to the others.

8 So good enough.

9 DR. BRAUNSTEIN: Don't go away so fast.

10 PROFESSOR STALLINGS: Oh, no.

11 DR. BRAUNSTEIN: Other follow-up questions or
12 comments from the committee? No? Well, I guess you can. We
13 very much appreciate your testimony today and look forward to
14 reading the entire report. In fact, I've got a copy of that
15 report.

16 PROFESSOR STALLINGS: Yeah, you probably do.

17 DR. BRAUNSTEIN: But that's for me personally.

18 We'd like it submitted for the --

19 PROFESSOR STALLINGS: Okay. Could I get an
20 e-mail address?

21 DR. BRAUNSTEIN: Yeah, I will certainly make sure
22 that happens.

23 PROFESSOR STALLINGS: Okay.

24 DR. BRAUNSTEIN: All right. Well, next on our

25 combined panel is Sheila Richards. Sheila, I pronounced your

1 name right, I think.

2 MS. RICHARDS: Yes.

3 DR. BRAUNSTEIN: Sheila is a long-time Aberdeen
4 resident and is prepared to share testimony on her
5 experiences and reflections on subtle racism today. Thank
6 you.

7 MS. RICHARDS: Yes, I am Sheila Richards. My mom
8 was born and raised in a sod house south of Thunder Hawk,
9 South Dakota, and some of you might know where that is, and
10 then moved to Indiana in the Dirty Thirties, then met my dad.
11 I was born there, so I spent summers in South Dakota. I fell
12 in love here and I've been here now 59 years. Came when I
13 was 18 years old by myself.

14 Iris came to live with us a very long time ago.
15 Our adult Sunday school class at church had been told that
16 there were several children at the Pierre Indian boarding
17 school who had no place to go, so we opened our homes and our
18 hearts and that's how Iris came to live with us. She is
19 deceased. She's Oglala Sioux from the Standing Rock. She is
20 buried next to her natural mother in Cannonball, and I no
21 longer have to explain where Cannonball, North Dakota is
22 because now everybody knows.

23 She'd been abandoned by her mom, raised by
24 relatives, then put into many foster homes shuttled from one
25 place to another, abused. People there on the reservation

1 at Fort Yates that now you must adopt these kids, you have to
2 adopt these kids, and that was, you know, the trend in those
3 days. It wasn't our plan. We'd been told that couldn't be
4 done. So we said to Iris, you have to decide this. What do
5 you want to do, and you can't decide right now, you have to
6 think about it, and she thought about it and she was adopted
7 here in Aberdeen, South Dakota.

8 She was a tough survivor, or so I always thought.
9 We kept her in touch always with her biological family. We
10 took her to her mother's funeral and burial at Cannonball.
11 Iris spent summers with her old aunties there. She was very
12 talented and musical and bubbly and energetic and had a great
13 sense of humor, very sensitive, a delightful child, but she
14 was also a regular teenager so I don't want you to think it
15 was a total picnic in those years.

16 Among other things, Iris and I had been told when
17 she was at the Pierre Indian boarding school, "These Indian
18 kids are too dumb to learn new math." When Iris came to live
19 with us, by 9th grade she was in advanced algebra. Now Vic
20 Runnels who is a Native American artist who just died here a
21 few weeks ago tells the same story of his youth. "You Indian
22 kids can't go to college to be artists." And I'm here to
23 tell you that these things are still said.

24 Iris was shunned by her relay mates here on the
25 swim team. She swam competitively for four or five years.

1 turned in the people who were abusing her and she was
2 eventually placed in a foster home with Bessie Suke (ph.) in
3 Fort Yates, and I think Bessie is still living. Bessie's
4 husband died so that she was forced to put her foster kids,
5 and some of her own kids, in the Pierre Indian boarding
6 school and that's how then we get to meet Iris.

7 She came to us, she had finished the fifth grade.
8 So during the sixth grade whenever we would go out to the
9 Black Hills to visit my husband's family, we'd stop to get
10 Iris, and when his folks came here, they'd stop to get Iris,
11 and then it's a real long story, and suffice it to say, we
12 became a licensed foster home and so Iris came to stay with
13 us.

14 She started 7th grade at Simmons school and
15 without any conversation, and it's amazing how this happened,
16 she walked right over there and registered as Iris Richards
17 and nobody asked anything about it. She was confirmed in the
18 United Methodist Church as Iris Richards, and then got a
19 driver's license, because in those days all you had to do to
20 get a driver's license was prove you'd been confirmed. You
21 could take your confirmation certificate and that would be
22 good enough. She also had social security as Iris Richards.
23 Nobody asked any questions.

24 When she was 16, which would have made her a
25 sophomore, I think, we were notified by the social services

1 These kids traveled together, they slept together, they ate
2 together, they went to church together, they worked out all
3 week together, and I would take her to school and drop her
4 off at Third and Kline and she'd run across the street to say
5 hi and they'd stick up their noses and that was the kind of
6 shunning that would go on.

7 In 7th grade she was told by a friend here,
8 "Iris, I'd like to have you come home with me after school
9 but my dad hates Indians and you can't come home with me."

10 My friend Marlys said only the other day, "Racism
11 hurts," and some of you here know her stories and she said it
12 was okay to use her name. It's been my observation and
13 experience that nothing much has changed over the years.
14 Many friends can tell you a lot worse stories than I can,
15 being followed around in stores in Aberdeen, our friends
16 that's happened to. Being ignored.

17 I was getting gas on I-90, I won't tell you which
18 exit, okay, and there were two lines to pay for our gas and
19 I'm the fourth person in line here and one Native man here,
20 and they waited on this one and this one and this one, and
21 finally when I made my way up there, I said, "You know, he's
22 been here ahead of me," and so she finally took his money,
23 but this is not an uncommon thing.

24 I'm in touch with Iris's sister in Popular,
25 Montana. I spent a semester a couple years ago traveling

1 over to the Enemy Swim Day School at Waubay to help in the
 2 library and help work with the kids and also on Dr. Seuss'
 3 birthday to sit in a rocking chair and read books to the kids
 4 all day. I did a short-term interim in White River in
 5 Mission. I heard a while ago some mention of White River.
 6 I've served several years on the board of directors for the
 7 Tree of Life Ministry in Mission, South Dakota. I've had the
 8 sacred privilege of officiating at several Native American
 9 funerals here in Aberdeen, and I'm also part of the team at
 10 the North Highland United Methodist Church that provides
 11 Christmas for the kids over at the Enemy Swim Day School and
 12 they do that in consultation with the teachers and the
 13 administrators there. We don't decide what children need or
 14 what they want, although little kids at Christmas are pretty
 15 universal, but still the work is with the teachers. How can
 16 we help, rather than here's what we think you need, which I
 17 think is quite valuable.

18 I tell you this so that you know that I listened
 19 to a lot of stories today and nothing much has changed since
 20 Iris was here. My friend Bernice who died in December told
 21 this twice in public, once from the pulpit, that she grew up
 22 on a reservation in Nebraska, well-educated, lived and worked
 23 in Wisconsin, moved to Aberdeen about 40 years ago. She and
 24 her husband raised three kids and grandkids here, and she has
 25 never experienced prejudice the way she does in Aberdeen,

1 poor kids, and they're afraid to report it, or if they do
 2 report it, they won't tell you who did it, so it's very
 3 difficult. I am in touch with teachers and I have visited
 4 with counselors at the school.
 5 Racism hurts. I picked up on some of your
 6 sentences a while ago, a lifetime of this affects your
 7 spirit, and then I had written and then I think one of you
 8 said and so I say how many of the suicides today are because
 9 of a wounded spirit? And how many of your kids -- I did a
 10 funeral for a young man here who committed suicide, it's one
 11 of the most tragic things I've ever done in my life, a Native
 12 American.

13 I am one of the original people to serve on the
 14 Aberdeen Area Diversity Coalition. I go around town and tell
 15 people all about the commission and share what facts I can
 16 through being welcoming and hospitable to everybody who lives
 17 in Aberdeen and helping the newcomers learn how Aberdeen
 18 works because the entire community will benefit from this.
 19 It isn't just for some other people. It's for the entire
 20 community. The coalition is to benefit all. We all need to
 21 learn, I think the mayor said, how to deal with things the
 22 way they are because they are and they're going to be this
 23 way.

24 There have been several public meetings about
 25 immigrants and refugees, and Naomi referenced the same one

1 South Dakota, and I saw it against Iris often. It used to be
 2 subtle, but it isn't subtle anymore. It is overt with the
 3 remarks this day.

4 Marlys said I could tell you this as well. Her
 5 friends went to pick up her child at the middle school. It
 6 was last September and it was a warm day. Here in Aberdeen
 7 we have miles of cars lined up of parents and grandparents
 8 going to get the kids after school, and her friend stood
 9 outside her car, was standing outside in the sunshine and a
 10 man came by and rolled down his window and said, you prairie
 11 N, the N word, go back where you came from. She's standing
 12 there minding her own business and he said go back where you
 13 came from and called her this derogative word. Well, she was
 14 born and raised here, so she was where she came from, but the
 15 point is racism hurts. It hurts.

16 I know Native students here in Aberdeen now who
 17 are bullied, but are afraid to say anything for fear of
 18 making matters worse, which is the same with any child who is
 19 bullied in school, and the kids have said in these other
 20 quotes, you're a stupid Indian, you are a dirty Indian, you
 21 are an ugly Indian and I can tell you're poor because your
 22 clothes come from the Salvation Army and I know that your
 23 parents are no good and so that's why you live in foster
 24 care. People say these things to the kids. Other children
 25 are saying this, and to be fair, they say that to all the

1 that I attended. I was sitting there with a Jewish friend
 2 who when we left, she said I'm trembling, and I shake my own
 3 head in disbelief, saddened to see people I've known for over
 4 50 years who are so adamantly opposed to the diverse cultures
 5 that live in Aberdeen.

6 Racism is alive and well in Aberdeen, or is that
 7 some kind of an oxymoron to use the word "well" with racism.

8 I do want to say that my husband is sitting over
 9 there, that we feel that the Aberdeen Public School System
 10 did a great job by our daughter Iris. Very pleased about
 11 that. And the most positive notice, to tell you that our
 12 birth kids, Renee worked 17 years on an assembly line in
 13 Seagate in Minneapolis and she was among the minority as a
 14 Caucasian. Our son Keith works for what was formerly Vought
 15 in Los Angeles making bodies for Bowling out of Seattle. He
 16 is a minority worker there, and our daughter Lisa was three
 17 years on the Standing Rock at Fort Yates as an attorney in
 18 legal services and is now an attorney in New Mexico where
 19 most of her clients are Hispanic or Native, and that's Iris's
 20 legacy, that's what she left for us that our kids and a lot
 21 of people that really got to know her see people first, not
 22 the color of their skin, but people. Thank you.

23 DR. BRAUNSTEIN: Thank you so much. Other
 24 comments or questions from the committee? I think that your
 25 presentation was very straightforward and is greatly

1 appreciated. Thank you so much for sharing your story.

2 Next we have Marcia Sylvester, right? Did I
3 pronounce that right?

4 PASTOR SYLVESTER: Yes.

5 DR. BRAUNSTEIN: Who is chair of the Aberdeen
6 Diversity Coalition that we have heard quite a bit about
7 today and so we are going to hear from the organization's
8 chair. Ms. Sylvester.

9 PASTOR SYLVESTER: Thank you. The Aberdeen Area
10 Diversity Coalition is just one year old this month. It has
11 only been in existence for one year, and I would like to take
12 you back to tell you how it actually came about.

13 About a year and a half ago, I received -- I'm a
14 Lutheran pastor here in Aberdeen. I serve Zion Lutheran
15 Church, and I received a letter from a men's group of one of
16 our congregations in Aberdeen, and they had thought they
17 would like to sponsor a Syrian refugee's family, a Christian
18 Syrian refugee family here in Aberdeen, and had sent a letter
19 to the churches asking if they would be interested in working
20 with them.

21 Well, I spent nine years on the governing board
22 of the Lutheran Social Services of South Dakota which is the
23 refugee resettlement agency that contracts with the federal
24 government in the State of South Dakota to resettle refugees,
25 and I quickly realized that we would never see a Christian

1 things work in Aberdeen. So we decided to call this meeting
2 of stakeholders, and we had over 30 stakeholders that
3 represented our community, and we formed what we called the
4 New American Task Force because we were just a task force
5 exploring this new phenomenon in our community.

6 We met for about, oh, maybe eight or nine months
7 and eventually renamed ourselves the Aberdeen Area Diversity
8 Coalition because we ceased to be a task force discovering
9 the issue, we became very well versed at what the situation
10 was here in Aberdeen, who the immigrant communities were, and
11 we now have close to 30 community groups, including the
12 school system, the Aberdeen Police Department, we have five
13 lawyers and the federal magistrate who are a part and have
14 attended our coalitions. We have a very broad, as you saw in
15 your pamphlet.

16 That is not to say that racism, soft or hard,
17 does not exist and so what I'm going to share with you now
18 today is in light of the fact that we have been in existence
19 for a year, we have done many, many wonderful things in the
20 community that could not have been done if we had not had
21 this coalition in place, but you talk about soft racism and
22 when we had our community meeting, one of the community
23 meetings with the Somalian community which I am most familiar
24 with because I deal most with the Somali community. One, I
25 would call her an elderly woman, she was probably in her 60s

1 Syrian refugee family in Aberdeen; number one, because we are
2 not a primary refugee site. Number two, we do not have lots
3 of Syrians in the State of South Dakota, and a refugee family
4 normally is settled in areas in the country where there are
5 communities, in this case of Syrians. And number three, we
6 won't be seeing very many Christian Syrians settling in the
7 United States. So I contacted this men's group and I shared
8 with them my thoughts and the thought that this probably
9 won't ever happen.

10 So we gathered together a group of other church
11 people and we began to realize that we may not have new
12 refugee families coming into Aberdeen, but we certainly have
13 seen an influx of new refugee persons in our community, and
14 as it turns out, these persons are secondary refugees,
15 meaning they have been resettled here in the United States
16 and are legal and have papers and they have found their way
17 to Aberdeen because of our employment. So we thought to
18 ourselves, my goodness, we have a population here of refugees
19 already, nothing had been formed, so we decided to call a
20 meeting of community stakeholders and to see if they would be
21 interested in exploring what it is these new community
22 refugee communities and immigrants need, number one, or who
23 they are, who are they, number one. What are the needs they
24 have in trying to understand Aberdeen because that's one of
25 the things they have said to us, we just want to know how

1 and she was a Somali woman, and Sergeant Theroux was there
2 when this came up and our lawyers were there and the federal
3 magistrate was at this particular meeting that day too with
4 this Somali community.

5 She came up and she was puzzled and she had a
6 question because she went to the bank where she has a savings
7 account, and she went to the bank to take out money and the
8 bank teller asked her why and what she was going to be using
9 the money for, and she was very puzzled by this and to that
10 day could not quite understand why this lady needed to know
11 this information, and fortunately the lawyers were there that
12 day and they asked several questions such as did you take out
13 more than \$10,000, if so then they need to -- you know,
14 that's a whole different thing. She just said no, I don't
15 have \$10,000 and she was puzzled, and we to this day do not
16 know why she was asked that question.

17 We also had another Somali man who was sharing
18 that one night at his apartment building, three Caucasian
19 individuals knocked at his door and really did not give him
20 any indication as to what it was that they wanted, and he was
21 puzzled. He remained puzzled as to why were these people
22 coming to my door, and so there are those kind of soft racism
23 things.

24 But let me share with you what happened last
25 night. On Tuesday, I received a telephone call from Alison

1 Ramsdell, who the --
 2 DR. BRAUNSTEIN: Assistant U.S. Attorney.
 3 PASTOR SYLVESTER: Yep, Assistant U.S. Attorney
 4 of civil rights, and she called and she said we're coming
 5 down to Aberdeen to be a part of this commission panel and we
 6 would like to meet with the U.S. State's Attorney, Randy
 7 Seiler and I would like to meet with the coalition to hear
 8 about what you're doing in Aberdeen. She said could we meet
 9 Friday morning, and I said sure, we'll meet at Zion because
 10 it was such a late time. And I Wednesday morning sent out an
 11 e-mail to the e-mail list of the Aberdeen Area Diversity
 12 Coalition and I said to them, "I received a call from Alison
 13 Ramsdell, a lawyer from the civil rights section of the U.S.
 14 Attorney's Office in Sioux Falls. She and the U.S. Attorney
 15 will be in Aberdeen this Friday for the U.S. Commission for
 16 Civil Rights community meeting. They've asked to met with
 17 any members of AADC who would be available on Friday morning
 18 at 10 o'clock a.m. She was impressed with the local
 19 grassroots initiative that has taking place in Aberdeen
 20 regarding refugee communities. There is a possibility they
 21 may have resources or ideas for the work of the coalition.
 22 I've offered to host the meeting at Zion due to short notice.
 23 Anyone on the coalition is welcome and encouraged to come and
 24 share the meeting at Zion and share your input with the U.S.
 25 Attorney and Alison. Please let me know if you're able to

1 attend."
 2 Great, I had seven responses, so I expected seven
 3 people to come to the meeting this morning at 10 o'clock at
 4 Zion. I woke up this morning to three texts from three
 5 individuals that said you have to know what happened last
 6 night, so I read their texts, and last night about 8:30,
 7 9 o'clock, there was a Facebook post on the Aberdeen Online
 8 Rummage Sale Facebook page. It is a closed Facebook page,
 9 and this was the message that was posted. "Immediate action
 10 required. At 10 a.m. tomorrow, March 24th at Zion Lutheran
 11 Church in Aberdeen, there will be a meeting with a U.S.
 12 attorney and a Loretta Lynch appointed civil rights attorney.
 13 How is it that citizens in Aberdeen concerned about the
 14 status of refugees and the identification of illegals in
 15 their midst are left out of this meeting, yet those who are
 16 opposed to the failures and negative incidences that have
 17 happened in Aberdeen do not get an invitation to be there?
 18 Where are the statistics and media reporting about crimes
 19 committed in their city by those who brought in refugees,
 20 illegals and secondary migration? Will anyone come forward
 21 to help Aberdeen and listen to the people? Will our
 22 governor's office or attorney general's office come to the
 23 aid of the Aberdeen concerned citizens who have had
 24 legitimate negative encounters and who hence feel unsafe in
 25 their communities? Has someone turned out the lights in

1 South Dakota and now everyone must run around the dark on the
 2 issue of refugee resettlement and illegals in our cities and
 3 towns? We have a responsibility to our South Dakota families
 4 and especially Aberdeen to fully vet every refugee and
 5 immigrant we place in our great state." And it goes on a
 6 little bit more.
 7 So that was one of them. And then I received a
 8 second one and this one was on a Facebook page called
 9 Aberdeen Rants and Raves. "All news today comes in second
 10 behind a secret meeting in Aberdeen tomorrow about selling
 11 out to unvetted immigration." And it goes on, "How is it
 12 that citizens in Aberdeen concerned about the status are left
 13 out of this meeting?" And they go onto quote some of this
 14 writing here. "But only groups organized by Lutheran Social
 15 Services who stand to benefit are invited to tell the story
 16 of how well this grand social experiment of bringing in
 17 refugees to Aberdeen is going." And it goes on a little
 18 further, but what concerned me the most was someone had
 19 shared, and it had to be -- we have community people on our
 20 e-mail list for the coalition because we have open meetings
 21 and we welcome anyone, and if they want to receive our
 22 minutes or our agendas, they're welcome to it. Somebody had
 23 sent that e-mail forward to someone else and they posted my
 24 e-mail to the coalition on Facebook, complete with my e-mail
 25 address and with the names of every coalition member to whom

1 I sent it to. That concerned me because they did that
 2 without permission.
 3 So this is what is happening. This is not
 4 unusual. This happened the first few weeks that the task
 5 force became public, and there were many -- I have many
 6 letters I have received. I received lots of calls. I
 7 received some that were very concerning and very frightening
 8 about a year ago; two of which I did give to the police
 9 department because there were veiled threats to my
 10 congregation and to our preschool that our congregation
 11 holds. So those have gone to the police department, but that
 12 was a year ago.
 13 If I can visit with people, I can usually help
 14 them to understand what the coalition does, but so many
 15 times, such as this social media, these were closed groups.
 16 So this morning, I asked to join these groups and to this day
 17 and time I have not been approved by their administrators to
 18 join those groups, so I was not able to say to them, this is
 19 not a secret meeting and it's not closed. It kind of blew up
 20 with comments this morning, but I can't tell you what they
 21 are because I could not enter the group, but we did have
 22 eight people that came, concerned community members that came
 23 to our meeting this morning and they were wonderful. We
 24 invite them to come to our meetings, but we do our business
 25 first and then we allow them to ask questions of our

1 coalition members. We did that this morning, and they were
2 very good about waiting until the end, and they had the
3 opportunity to share their concerns and to ask the state's
4 attorney questions on their behalf, so...

5 DR. BRAUNSTEIN: So...

6 PASTOR SYLVESTER: It just was perfect. This is
7 what you asked for, evidence.

8 MS. BLISS: Real time.

9 PASTOR SYLVESTER: Real time. And I had no
10 intention before this morning of ever sharing this kind of
11 thing with you, but you need to know it's out there and we do
12 get e-mails and phone calls regarding this.

13 MAYOR LEVSEN: It shouldn't be dismissed at all.
14 However, when people ask me about when this first meeting
15 came to town, the meeting that so appalled people who were
16 there, there were what, two, three hundred people there, and
17 somebody said to me the next day, gees, there were 200 people
18 there, whatever, and I said, well, that means with all this
19 publicity 39,800 people in Brown County did not go, and you
20 know, as they say, one drop of poison spoils the whole glass,
21 so it doesn't take very many people to give the impression
22 that they have a lot more numbers than they really do, and
23 people who have reached the point where they can no longer be
24 rational in their decision over this really are not worth our
25 time because it's hopeless, and there aren't many of them. I

1 build trust, but it's really hard.

2 MS. BLISS: It's a public place and anybody can
3 walk in, but it is the police station.

4 PASTOR SYLVESTER: Yeah. Well, and it's not
5 that. I think they're just frightened.

6 DR. BRAUNSTEIN: Of the public reaction.

7 PASTOR SYLVESTER: They do not know what to
8 expect, yeah.

9 DR. BRAUNSTEIN: By extreme viewpoints.

10 PASTOR SYLVESTER: Yeah.

11 MS. BLISS: I didn't know what to expect today.

12 PASTOR SYLVESTER: Yeah, me neither.

13 MS. BLISS: But the thing you must do right away
14 is learn how to do blind carbon copies --

15 PASTOR SYLVESTER: Yes. It never dawned on me
16 that anybody would take that e-mail -- because I do e-mails
17 to the coalition all the time, but we will from this point on
18 begin to do blind copies, yeah.

19 DR. BRAUNSTEIN: I don't know what to say. Other
20 comments from the committee members? Well, I guess it
21 shouldn't be surprising, right?

22 MS. BLISS: I think it's a national thing. I
23 don't think it's just Aberdeen, and you know, there are small
24 groups that talk about this, you know, Sharia law and all
25 these different kinds of things. You just have to stand your

1 am firmly convinced there are not many of them, and I've had
2 very fruitful discussions with people who are very opposed to
3 refugees. There are some you just can't talk to and they're
4 probably some of the ones who are sending these.

5 So again, I would not dismiss these at all
6 because some of them are to the level of frightening, they're
7 threatening, they're certainly discouraging, but it doesn't
8 take very many knuckleheads to make things look worse than
9 they are. And now with Facebook, every day Facebook bumps
10 another load of poison into our community and just about
11 every community there is and there's nothing we can do about
12 it, but we don't have to overreact to it too, and we just
13 have to keep doing what you're doing and --

14 PASTOR SYLVESTER: We do.

15 MAYOR LEVSEN: -- either they'll come around or
16 they won't.

17 PASTOR SYLVESTER: You know, and we do. As a
18 coalition, we just charge forward because we've become very
19 well acquainted with our refugee communities right now in
20 Aberdeen, and we, Sergeant Theroux, and we've asked them to
21 be a part of this meeting today to come and speak, and they
22 came to the parking lot, two of our Somali people came and we
23 saw them drive in, and they could not bring themselves to
24 come. They are very reticent. They're very careful. They
25 do not want this kind of response back, so we're working to

1 ground.

2 DR. BRAUNSTEIN: Right. Ideally there would be a
3 way to engage people of all viewpoints. I think Mike used
4 the term "knucklehead" though, and some folks who are indeed
5 knuckleheads as opposed to being --

6 MAYOR LEVSEN: You know, as they say, there are
7 not --

8 DR. BRAUNSTEIN: Are not going to be reached.

9 MAYOR LEVSEN: And there are really not very many
10 who can't actually engage and have a conversation. There are
11 some you just can't, but -- and they would probably regard me
12 as a knucklehead.

13 DR. BRAUNSTEIN: But Charlie Abourezk mentioned
14 at the outset about the nature of subtle racism being most
15 pernicious among those who are most vulnerable, and so
16 there's real fear, these so called knuckleheads, people who
17 have the viewpoint -- whether it's conscious, or whether
18 it's -- not conscious. Whether it's justified fear or not,
19 it's their fear, and so I would hope that there would be a
20 way for fair-minded individuals to not label and dismiss
21 because I know that individually I've been labeled and
22 dismissed and it doesn't feel very good, right, and so we
23 ought not to engage in that. But that is a strategy that
24 people use, right, to say I don't have to engage you because
25 you're a knucklehead, and I'm just playing with the word you

1 used. I don't disagree with the fact that there are
2 knuckleheads in our communities, but there is a basis of
3 fear. There is a basis of, you know, real trepidation and we
4 have to engage that in some way, and I'm no expert on all the
5 best practices for how to engage that.

6 But we are going to move forward. We are going
7 to get through our agenda and I am hoping that you --

8 MS. KINGMAN: I had just one quick thing.

9 DR. BRAUNSTEIN: Oh, I'm so sorry. Please go
10 ahead.

11 MS. KINGMAN: Maybe Aberdeen should request of
12 Randy that he have the same forum here in Aberdeen that he's
13 holding in Sioux Falls.

14 MS. BLISS: I'm pretty sure that they're planning
15 because she's going to be all over the state with it.

16 DR. BRAUNSTEIN: And Melanie and I are both
17 attending that forum in Sioux Falls and we will report back
18 to this committee and through that to the public to share the
19 observations and the agenda for that meeting.

20 MS. BLISS: It's a forum on protecting Arab,
21 Muslim, Sikh and South Asian communities and responding to
22 hate and bias crimes. It's a free conference. It's 6 to 9
23 next Thursday night.

24 DR. BRAUNSTEIN: At the library.

25 MS. BLISS: Leaders of diverse community,

1 form of racism. Not that there's a rational form of it.

2 But as this panel continues, I want to make sure
3 we're okay to move on, that you, sir, can help me pronounce
4 your name, please. I do not want to get it wrong. It is --
5 can you help me?

6 MR. PENI MOUNGA: Peni like a coin.

7 DR. BRAUNSTEIN: Peni, okay. Peni Mounga?

8 MR. PENI MOUNGA: Yes, sir.

9 DR. BRAUNSTEIN: With a softer G?

10 MR. PENI MOUNGA: Mounga, correct.

11 DR. BRAUNSTEIN: Okay.

12 MR. PENI MOUNGA: A brother to D.J.

13 DR. BRAUNSTEIN: Thank you. Yes, I assumed that
14 there was a family relationship, although that assumption
15 could be misdirected.

16 Peni is the director of the TRIO Upward Bound
17 program, which is a fantastic program. If you don't know it,
18 that helps college students around the country become
19 successful and reach their potential in the higher education,
20 and so as director of TRIO at Northern State University,
21 you've come to share your testimony and we appreciate that.
22 Thank you.

23 MR. PENI MOUNGA: Thank you, chairman, mayor,
24 committee, elders and fellow folks from Aberdeen. I'm
25 accustomed to training and I thought we were going to

1 faith-based and nonprofit organizations in Sioux Falls. The
2 agenda is the state of hate, the community speaks, and you
3 are not alone, resources for the community in the aftermath
4 of hate.

5 MS. KINGMAN: And I'm sure Randy would come and
6 do one here in Aberdeen if you asked him.

7 PASTOR SYLVESTER: I think he mentioned that this
8 morning, he did, that when you speak about it, I hear him say
9 that they were talking amongst one another that that would be
10 something.

11 MR. GERMAN: Mr. Chairman?

12 DR. BRAUNSTEIN: Yes, sir.

13 MR. GERMAN: Not to be blasé about this, but I
14 don't think as Indians we find any of that at all surprising.

15 DR. BRAUNSTEIN: No, I don't think any of us
16 should be surprised.

17 MS. RICHARDS: No.

18 DR. BRAUNSTEIN: The question is how do we move
19 forward productively. It's disheartening, not surprising,
20 right? It's hurtful, but not surprising.

21 MS. BLISS: Neil Gorter said that.

22 DR. BRAUNSTEIN: Say that again.

23 MS. BLISS: Neil Gorter said that. Disheartening
24 when people call you names.

25 DR. BRAUNSTEIN: Yeah, or show this irrational

1 dialogue, but apparently we're not going to that so...

2 DR. BRAUNSTEIN: We don't have the time, I'm
3 sorry.

4 MR. PENI MOUNGA: No, that's okay, so what I'm
5 saying in humility is please excuse if I fumble around these
6 notes.

7 I just want to say (foreign words) and aloha. As
8 an implant to Aberdeen, South Dakota over 20 years ago, my
9 family and I have been fortunate to have been accepted here
10 in the committee, so I might report, and I realize this, my
11 reports and experience in Aberdeen and what I have to share
12 is something of a -- hopefully a positive takeaway, but I
13 also want to say that I don't live in a bubble of sunshine
14 world. I'm very aware of this, and for anyone who -- my
15 colleagues or folks who do know me in the room, I'm very
16 comfortable with conflicts and not necessarily bad use of
17 that, but in addressing things head on, and so what I've come
18 prepared today with are comments and insight as to what has
19 worked on Northern States University's campus in regards to
20 interaction with different populations, if you will, and they
21 might not be ground breaking, but I hope you find the value
22 in simplicity in this and not to lose what actually applies
23 and works.

24 And so one of the things, and there's many, but
25 we're short of time, things to talk about in regards to what

1 works, but one of the things I want to address is simply
 2 this, is people want access and I think that aligns to the
 3 mission of TRIO. We want access, all of us. We want access
 4 to success. We want access to a good paying job. We want
 5 access to safety. We want access to resources. We want
 6 access to friends. That's what really anybody and everybody
 7 wants is access, and so being one of the pillars of TRIO,
 8 that's at the forefront of my mind is access, and being also
 9 a father of -- my oldest is in high school and my youngest is
 10 a newborn, and there's five of them scattered somewhere in
 11 there, but as a parent, I find myself continuing to teach the
 12 simple lesson is to share. To share. And really what it
 13 comes down to is some people have access to these things,
 14 resources let's call them, that should be simply shared, and
 15 when it comes down to it, sometimes as little children, and
 16 now this is very relevant, sometimes as little children they
 17 don't like to share and we all know that, but as we all know,
 18 little people grow up to be big people who grow up to be
 19 elders who grow up -- and in that process and scope of life,
 20 sadly sometimes people don't understand that simple value of
 21 sharing and allowing access. So no matter how you cut the
 22 pie, no matter how you look at it, what labels you stick on
 23 it, how scientific or big or important that is that you want
 24 to label this conversation, I like to -- and the way I share
 25 with my students is breaking it down to access and sharing

1 successful administrative support. That means the brokers of
 2 the power and the resources, whoever that might be, whether
 3 it's a church, whether it's a university, whether it's a
 4 community, right. And so what boils down to that is the
 5 experience and the knowledge of knowing, well, do you really
 6 want to share? Do you really want to share? We can talk
 7 about that, but when you really share the resources, what's
 8 dangerous about that is that the picture or the idea or the
 9 vision might change. You might be accustomed to painting
 10 with blue paint. Everybody can paint your picture with
 11 whatever it looks like with the blue paint, but once you put
 12 on some pink on that, hmmm, I'm not sure if I like that pink
 13 paint, and then if you get some orange on that and some white
 14 and whatever colors you look at it, the vision changes, the
 15 appeal changes, and so part of this, I hope we're heady
 16 enough to keep with me in this simple example, but these
 17 types of analogies have worked with students to understand as
 18 opposed to presenting it in situations where people feel
 19 challenged and the walls of defenses go up.
 20 So, like I said, simplicity of education and
 21 increasing awareness has worked at Northern State University,
 22 sometimes through leadership training, knowing that you have
 23 a better shot at influencing the people in the rugby club or
 24 the chess club or the science club than I do, and working
 25 with leaders and sending them out with a message and the

1 access.
 2 You can get deep into that by talking about
 3 power, authority, and this, that and the other, but the
 4 simplicity is really about access, and so Northern State
 5 University, the TRIO Upward Bound program, we could spend
 6 hours talking about what has worked, but what I'd like to
 7 share is some of the best practices from higher ed and
 8 Northern State University specifically.
 9 Education and awareness has worked. It's a
 10 proactive approach to increasing the mindset of people,
 11 helping them to understand the historic content of why people
 12 feel that way as opposed to where many people learn over the
 13 dinner table years of this is why those people and that
 14 people and that people without ever interacting with those
 15 folks, and we know and we've heard testimony of that
 16 throughout the duration of this day, and maybe ourselves have
 17 that same experience, all right.
 18 That's what's exciting for me in working in a
 19 college setting is the opportunity to challenge folks, their
 20 experiences and what is, in their minds, fact, with indeed
 21 fact, and a safe place to offer dialogue. So education and
 22 awareness has worked. Of course you might think, well,
 23 you're an institution of higher ed, but what you have to do
 24 is you have to be conscious about it and allow platforms and
 25 places for this to actually occur. This happens with

1 skill set to be able to do that.
 2 I believe in my experience at Northern State
 3 University that has contributed to some of the changes that
 4 we face on campus, which is probably reflective of some of
 5 the things that we face now as a community. I briefly
 6 addressed that. Administrative support, that's what it looks
 7 like at an institution, but we might look at the mayor in our
 8 community, he might look at his various committees. You
 9 might look at yourself as a management team or CEO or a chief
 10 or a pastor, but not waiting for the next person, and I
 11 believe that has been shared today, that has worked for us.
 12 Investment and involvement, creating points of
 13 contact. Now I say this and I've been trying to figure out
 14 how to say this in a meaningful way. As a Pacific Islander
 15 from Hawaii and Utah and though a 20-year resident in
 16 Aberdeen, South Dakota, in many ways I still find myself as
 17 an outsider, so I share this perspective, right. I often
 18 laugh at these community sessions and I've attended several
 19 of them over the years, and we often talk about our efforts
 20 to address this population or that population, and D.J.
 21 touched on it earlier, but I want to double down on this to
 22 help you to understand. Sometimes, sometimes by virtue of
 23 not taking care of the very people in our own communities or
 24 in our own state, sometimes we don't put our best foot
 25 forward. Many times it's been my experience that the

1 greatest ethnic population, if you will, is our American
 2 Indian population here in the State of South Dakota. It's
 3 very hurtful when I -- and I'm representing the voice now,
 4 just not my opinion. I'm representing the voice of students
 5 who oftentimes don't have a say or a voice, so I'm very
 6 thankful for this opportunity to share in that we need to
 7 start in meaningful ways, and sometimes it's easy for us, you
 8 look at it in the media, you look at it and what's going on
 9 right now if you stop and pause. Our American Indian
 10 community feels brushed over sometimes, and I say that
 11 nicely, right, but if we -- it comes down to what I said
 12 earlier, do we really want change? Do we really want it? Do
 13 we really want it?

14 And I believe, personal values, that love will
 15 conquer all. I believe that. I believe that. But it takes
 16 good people at the individual level to have faith, to have
 17 hope and to endure and to have the courage to believe that,
 18 that I am in a position to be able to make a change, that my
 19 small contribution can make a change, and until we start to
 20 move that forward, it becomes challenging, and almost
 21 hopeless.

22 But you know, I know time was short today, but
 23 the APD is another good example of relationship building.
 24 The APD has a strong presence and it has built, it made the
 25 effort to make a presence on Northern's campus. That I

1 saying this. There's a lot of ways to approach this topic, a
 2 lot of ways, but I hope that as we approach it, and I say
 3 this not in a cheesy way, but because I have chosen to reside
 4 here for the last 20 years of my life, to raise my children
 5 here, amongst all of us, and it can only be done in love. As
 6 a community member, I feel very well placed to say that. Not
 7 necessarily as a director today, but as a member of the
 8 Aberdeen committee, I believe that, that it can only be done
 9 in love, and I believe that you already know how to love.
 10 That's just it is don't get caught up with the politics and
 11 how to say this and how to say that, act on what you know and
 12 do what you know and that closes my testimony.

13 DR. BRAUNSTEIN: Thank you so much, sir. I
 14 appreciate that. That's powerful words. Any comment or
 15 reflections?

16 MS. BLISS: I just have a question. How many
 17 Pacific Islanders in South Dakota?

18 MR. PENI MOUNGA: In South Dakota, less than one
 19 percent. In Aberdeen, South Dakota for a while there, we
 20 bragged, we would have broke that. There was a nice athletic
 21 pipeline there with one Mr. Ken Heupel who was the former
 22 head coach here who built that pipeline, for good or bad, I
 23 believe good. He can be credited for that pipeline.

24 MAYOR LEVSEN: And when I was at Northern
 25 50 years ago, there was one African American student out of

1 believe has paid dividends in regards to sometimes how our
 2 students see the Aberdeen Police Department. What they've
 3 done is they've included them. I can think of several
 4 alumni, Officer Chigoua (ph.), Trent, I forget out of respect
 5 his last name, and in the presence of the campus officers
 6 that have served on campus, have made great genuine impact.
 7 Sergeant, maybe he's gone up since then, but VanDover,
 8 Officer Fadness, there's different folks, have really made a
 9 great impact on campus. Interfaced with our students, showed
 10 up to programs that are potentially controversial, you know,
 11 but have showed the support. So it's been alluded to before,
 12 campus with -- coffee with a cop, something like that, these
 13 type of things, they've presented contact points, meaningful
 14 contact points, and I believe they've sewed their seed so
 15 that when the opportunities come, I mean, when it hits, that
 16 the relationship is already built there. Hey, Peni, we had a
 17 really big incidence at this establishment over the weekend
 18 concerning some of your students, can you come down and
 19 interface with us and give us some insight? The
 20 relationship's already in place. It's not an afterthought.
 21 So kudos to the APD with their efforts, and once again, even
 22 with the camera efforts is really reflective, not only of
 23 this initiative, but of the good things that happen and the
 24 good leadership and the good fortune that we are here.

25 I realize I'm over time and I'll just close with

1 3,000, and the only time that we began to have African
 2 Americans seen significantly in Aberdeen was athletes at
 3 Northern, that was the beginning of white and black
 4 integration in Aberdeen.

5 MS. BLISS: 50 years, so '68? '67.

6 MAYOR LEVSEN: '67.

7 DR. BRAUNSTEIN: Okay.

8 MR. GERMAN: Mr. Chairman, at that --

9 DR. BRAUNSTEIN: Yes.

10 MR. GERMAN: What the mayor had said. The first
 11 time I was on tribal council, I was asked -- myself and
 12 another council person were asked to go talk to the school in
 13 Milbank, South Dakota, about 45 miles from Lake Traverse
 14 Reservation, and we get down there and he says, well, you
 15 guys can talk about anything you want to, but what I'd like
 16 really you guys to touch on and what I would like you to be
 17 aware of is my school district is like 99.99 percent white.
 18 He said the only color that we see are Korean kids that are
 19 adopted or -- because that was the thing, you know, about my
 20 lifetime, there was a big Korean adoption push, or when you
 21 have foreign exchange students in the school district. He
 22 said, but other than that, we're 99.9 percent white, and he
 23 said as the superintendent, the thing I'm concerned about is
 24 we don't do enough in regard to making people aware of
 25 diversity. So we get our kids, good kids, that graduate from

1 Milbank High School and they go into the larger world and
 2 they go to SDSU, they go to NSU, they go to NDSU, they go to
 3 USD, they go in the Army, and for the first time they meet
 4 people of another ethnicity and they don't know how to
 5 interact or respond to them, and sometimes because they
 6 haven't had any awareness, they react or respond negatively
 7 which gets them into trouble at some times.
 8 DR. BRAUNSTEIN: Yes.
 9 MR. GERMAN: And then they come home, but because
 10 they got in trouble because of their inability to interact
 11 because of their unawareness, unawaredness.
 12 DR. BRAUNSTEIN: It's ignorance in a simple
 13 sense.
 14 MR. GERMAN: Now they have a negative connotation
 15 to those people of different ethnicities and different races,
 16 and he says that's what I'm trying to get you guys to talk
 17 about, and I think that was pretty progressive.
 18 DR. BRAUNSTEIN: Yeah.
 19 MR. GERMAN: I mean, I don't think we do enough
 20 of that. I think, Mr. Mayor, you had said one time that one
 21 of the simplest things that we can do to raise, as the
 22 director had said, awareness of Indians, this was a long time
 23 ago, five or six years ago, you said put a pass/fail question
 24 on one thing in order for every South Dakotan to graduate
 25 from high school, one simple pass/fail question, name the

1 the answer is, and I think that you were saying this, Peni,
 2 your small acts, right, add up fast, and so thank you for
 3 making that suggestion about the required test question. It
 4 was your question. Sorry. But I'm going to add it. I'm
 5 going to add it starting the very next test I give.
 6 Let's take five minutes. We're going to come
 7 back and hear from the public. Again, we appreciate
 8 everyone's patience and perseverance. Five minutes and we
 9 come back.
 10 (A break was taken.)
 11 DR. BRAUNSTEIN: Okay, I would like to invite
 12 you -- oh, wow, they have your name out there. Milette
 13 Eastman. Are you from Aberdeen?
 14 MS. EASTMAN: I'm from Sisseton.
 15 DR. BRAUNSTEIN: You're from Sisseton and we
 16 welcome you here today. Please share with us, as you can.
 17 MS. EASTMAN: Well, I heard about this meeting in
 18 my tribal newspaper, and I went to a civil rights meeting
 19 back in 1999 in Rapid City and there was a lot of people
 20 there at that time. I went there with my parents, and I
 21 remembered that so I wanted to come today and listen and see
 22 what everybody else had to share, and I never did this
 23 before, so I'm nervous, but I thought it was important to
 24 talk about things, and I don't really have any information or
 25 know anything about the body cams or anything, and I think

1 nine tribes in South Dakota. People would immediately become
 2 more aware, because my being able to get out of here depends
 3 on that, and even if it's only that little bit of familiarity
 4 that they have is that there are nine and that they're all
 5 Sioux, but there are nine tribes and here's the name of them,
 6 maybe some of them get to be naturally curious. Well, what
 7 are they, what is Sisseton/Wahpeton, why is it a triangle,
 8 and there's a funny story of about why Sisseton is in a
 9 triangle. But you know, it may spark a conversation, and you
 10 know, I don't know how you do something like that, make such
 11 a simple suggestion. Mr. Mayor, how do you do something like
 12 that? I think it's a beautiful, simplistic solution.
 13 MAYOR LEVSEN: It's above my authority to change
 14 it up.
 15 DR. BRAUNSTEIN: As a professor who gives tests,
 16 I could impose a question in any one of my classes. I would
 17 choose, as I was listening, I would choose the question of
 18 what are the Lakota values, because I think that people would
 19 see regardless of what their background is a lot of
 20 similarity between their own values. There's a lot more
 21 common ground than we can reach because we kind of have
 22 separate conversations, but I think I'm going to add that to
 23 every test now. I'm going to add that question, and I'm
 24 going to let my students know in advance. It's not going to
 25 be extra credit. It's going to be a required question, but

1 that's kind of basically what you guys are talking about
 2 today.
 3 My thing was I just think that there's racism in
 4 the educational system in South Dakota. What Scott -- I'm
 5 glad Scott brought that up earlier about the medication. I
 6 feel like our Native kids, when they got hyperactive in the
 7 classroom, I think that's what they -- the teachers
 8 immediately want to put them on meds all the time, and I
 9 don't think that's right because I feel like it's -- like
 10 that's putting them on a road to addiction and those are
 11 powerful meds, and you know, there's a certain way that when
 12 they come off those meds, there's a lot of bad side effects
 13 to them and you can't just take them off, you have to kind of
 14 wean them off, and I just think that it's becoming a
 15 prevalent problem, you know, on our reservations.
 16 I can't speak for all of them, but on my
 17 reservation, I have a nephew that goes to Browns Valley,
 18 Minnesota. It's a public school. It's a pre K through 8th
 19 grade school, and there's about a hundred students that
 20 attend there and a little over 50 percent of them are Native,
 21 and it's a border town to Sisseton, and my nephew attends
 22 there, and right away, you know, when he was starting to act
 23 up in class, that's what they wanted to do, put him on ADHD
 24 medication, and I told my sister, don't do it, don't do it.
 25 I hear -- you know, you can just do a Google search on all

1 that stuff, you know, how bad they are and you always hear
 2 the horror stories out there and I don't think you should do
 3 that, and she ended up doing it because the teacher started
 4 to call the sheriff, the city sheriff on whenever he would
 5 get out of hand and get upset or whatever. Well, we're going
 6 to call the sheriff, and one time they called and never even
 7 told my sister about it. We found out about it through other
 8 kids. They called the sheriff on Nathan today, you know, at
 9 school, and I said that's wrong, you know, and I don't know,
 10 I just kind of feel like our kids don't have any rights. I
 11 feel like we don't have a voice.

12 I feel like when you go to the teachers with
 13 these concerns, I feel like they get defensive. They kind of
 14 treat you like you don't really have a reason to be
 15 concerned, or you kind of feel -- or they make you feel
 16 stupid, or you know, for even bringing it up and that was my
 17 -- I wanted my sister to come here today, but she was unable
 18 to, but there's other things out there too.

19 Even like with the ACT testing, I feel like my
 20 daughter was discriminated against. She tried to take her
 21 ACT test in Watertown. Out of 95 students that came there to
 22 test, there was only two minorities, she was one of them, and
 23 it kind of felt like she was kind of singled out and they
 24 even accused her of cheating, and I don't know, I just -- I
 25 ended up reporting it to the ACT place. I went to my

1 my kids mean a lot to me. And my daughter goes to USD right
 2 now, the one that was kind of discriminated against and
 3 publicly embarrassed or whatever in front of all those
 4 students, but she's in USD now. This is her first year and
 5 she's going in the fall, so that's a success story, and I
 6 want her to keep -- you know, I want her to be there, you
 7 know, keeping on with her education.

8 DR. BRAUNSTEIN: What is she studying?

9 MS. EASTMAN: Nursing.

10 DR. BRAUNSTEIN: Nursing?

11 MS. EASTMAN: Yeah, she wants to be a nurse.

12 DR. BRAUNSTEIN: Okay.

13 MS. EASTMAN: So I don't know, I just appreciate
 14 everybody that stayed today and listened and all the stories
 15 everybody shared, they gave me a lot of inspiration and hope.

16 You know, I know not all cops are bad. I know
 17 not all people are prejudice or racist, but you know, there
 18 is racism out there, and I hate it when people say, oh, we're
 19 past that now, and no, it's still out there, and you know, I
 20 even experience it with myself. I'm light complected,
 21 lighter skin. My husband is dark, and I even see how we're
 22 treated differently when we go into a store. People are more
 23 nicer to me because I have lighter skin and they treat my
 24 husband different. I see it and we talk about those things.
 25 You know, some of my nieces and nephews are dark and some of

1 daughter's high school and I told them what happened and to
 2 me they didn't respond the way I think they should have. I
 3 told them, I said don't send any more of our students from
 4 our tribal school to Watertown for ACT testing because I
 5 believe that Watertown school kind of discriminated against
 6 my daughter or made her feel out of place or whatever, they
 7 weren't very helpful to her. She said, mom, I was so nervous
 8 I felt like I couldn't even test, I felt like they were
 9 hovering over me, and she came home crying that day. And I
 10 said well, I'm reporting this. I don't know who I'm going to
 11 tell, but I'm going to report this. So I told everybody I
 12 thought would listen. I went to the tribe and told people
 13 out there, and finally I ended up writing an e-mail to the
 14 ACT place in Iowa, you know, but I never heard back from it,
 15 but I wanted to send a message to my daughter, you're worth
 16 it, you know, you have a right to -- you know, for a higher
 17 education like anybody else, and you shouldn't have to feel
 18 like that when you go into a place like that.

19 But there's many other little stories like that,
 20 you know, that I could tell or experiences, but I know that
 21 we're kind of short on time, but I stayed here today to talk
 22 about these things and kind of face my fears. I'm getting
 23 red in the face because I --

24 DR. BRAUNSTEIN: You're doing great.

25 MS. EASTMAN: -- don't talk much in public, but

1 them are lighter complected, and the lighter complected kids
 2 that look more white, they're the ones that get treated
 3 better than the ones that are more dark skinned, and there's
 4 things like that out there, and because I'm nervous I can't
 5 remember everything that I wanted to talk about, but those
 6 are things that I wish someone would at least check into or
 7 investigate out there that's going on out there in our state
 8 and our community.

9 DR. BRAUNSTEIN: Okay. I'd like to interrupt you
 10 for a one second because you said a number of very important
 11 things and I hope that this committee can provide some
 12 assistance in the things that you have communicated with us,
 13 things you were able to talk about.

14 First off, my daughter has taken the ACT test
 15 right now, she's a junior in high school in Vermillion and
 16 I'm sorry for co-opting the agenda by talking about my family
 17 now twice today, but I know watching my daughter and all of
 18 her anxiety around the test, it's almost unbearable to my
 19 16-year-old daughter who's a capable, confident person
 20 ordinarily. I cannot imagine the added stress and the impact
 21 of that stress if there was some perceived scrutiny about her
 22 cheating, or I mean, there's so much anxiety surrounding this
 23 ACT test, and unfortunately there's scholarship money
 24 associated with that test. There are real implications. Now
 25 in South Dakota, regardless of how well you perform, you

1 should be able to pursue your higher education, but you may
2 not get, at USD, a Coyote commitment or another kind of
3 scholarship which are based almost exclusively on ACT tests,
4 and so there has to be a way for this committee to address
5 the concerns for undue pressure being put on Native test
6 takers, and so it's in the record now and we will have a
7 conversation about that and we will address that, so thank
8 you very much for sharing that.

9 I want to also just take a moment to talk about
10 your nephew, right, and we've already talked about my son and
11 I feel like I have an intimate knowledge of ADHD. He's been
12 diagnosed at Behavioral Health Services in Sioux Falls as
13 having an extreme version of it, my son does, and I cannot
14 imagine not feeling capable or confident in being an advocate
15 for a family member. So what I want to say to you
16 personally, and again, we're going to have to take this on as
17 a committee, but for right now, I want to share my phone
18 number with you and if anyone in the community that you know
19 of feels that they're unsure how to be an advocate for their
20 kids because of this ADHD diagnosis or pressure to use
21 medicine, and I've spent a lot of time researching this out
22 of personal necessity, family necessity, that I will travel
23 and advocate personally for anyone that needs the help, so
24 thank you for asking for help, if I can accept it as that.
25 I'd like to respond personally.

1 Then I'd also -- and I'll share my phone number
2 with you later, but I also can say that our committee will
3 absolutely take this on. This is the second time it's come
4 up today. It's something that maybe some of us were unaware
5 of, but we need to get smart on it and see what we can do.
6 Yes, ma'am.

7 MS. BLISS: On the first Thursday in February I
8 was in Pierre and I went with a advocacy group that advocates
9 for people who are poor or food insecure, and I had occasion
10 in the afternoon, there were about six or seven nuns, myself,
11 several other people, and we were with probably six
12 legislators, and the three of the legislators that we were
13 with were from small towns, I think one is a border town, one
14 is a reservation and one is very small town in South Dakota,
15 and they shared and found out from each other in that
16 particular meeting that people were bringing to them
17 complaints about their small school systems and they had not
18 heard those complaints before, and in every case, the
19 complaints were that there was one child in their situation
20 that was very violent, and that one child being very violent
21 kept the rest of the students from being able to learn, and
22 their attribution is is the services that were once available
23 in South Dakota are simply not available in very small towns,
24 and people have made, I would say updates, on the juvenile
25 justice rules in the state, and the unintended consequence is

1 is that if someone is violent in the room, it's only the
2 teacher that has anything to do with it. There are no
3 resources in the community or for the family or for that
4 student that are close to access, and that they're going to
5 do something about a bill next year because this juvenile
6 justice reform is new, but this was one of these unintended
7 consequences, and there will be maybe one family counselor
8 and nobody can get to them because it's so far, but so many
9 children are impacted in that system. And when you stop to
10 think about it, if we don't have the services to serve
11 children in our schools and we don't have any services
12 outside in the community to serve our children, what happens
13 to that person that is violent? Who's responsible? And what
14 happens to the one child that has the ADHD and there aren't
15 the services for them because it's rural or frontier, or the
16 school system simply doesn't have them, and because you live
17 in the wrong place you don't get a service, but if you live
18 in a different place, you do? I mean, I think that's --
19 pardon me for me being personal, but you were personal.

20 DR. BRAUNSTEIN: Yeah.

21 MS. BLISS: It's very deeply unfair.

22 DR. BRAUNSTEIN: And that's only half of it,
23 right, because the other half is that as Scott and I were
24 talking just a moment ago, or maybe almost an hour ago now, I
25 have had to advocate for a response from the school that's

1 appropriate to my son. They don't care -- you know, they're
2 satisfied to label him as a troublemaker with bad character
3 and let him go and just give him detention. My son has spent
4 so many days in the white room, which is a quiet space that
5 you have to not talk to anybody and do your work because you
6 can't be in the classroom, and I've wanted a response from my
7 school district and I've had to advocate for a response.
8 That's quite different than what I'm hearing today which is
9 that there's this swift uncompromising response of let's
10 label that kid ADHD and force medication on them and then not
11 trust their parents to administer that medication. So this
12 story of compulsory medication and compulsory treatment is
13 the exact opposite of my experience in Vermillion where I
14 have had to stand up and shout, I want an accommodation. Now
15 the problem with my son is that he's a straight A student but
16 he cannot sit still, so he gets detentions endlessly and he's
17 scattered about doing his homework, so he gets a lot of late
18 points. But the school district is like he standardize tests
19 well, he represents the district well, we don't have anything
20 to say about that kid because he's performing as well as we
21 need him to. So I've had to advocate for a response, that's
22 a problem.

23 The problem here is the opposite end of the
24 problem, and we're going to need to, I think, take this on as
25 a subtle form of racism consistent with our theme this year

1 and deliberate and do some research and some investigation to
2 get smart on, and then to make a recommendation from this
3 committee as to how the state might go forward. Yes?

4 MS. KINGMAN: And it doesn't end there with the
5 children because in Rapid City, now the Rapid City Regional
6 Hospital will no longer take mental patients, and so they
7 have to go to the police, to the jail and they're not
8 equipped --

9 MS. BLISS: Same thing with the sheriff.

10 MS. KINGMAN: Yeah, and they're not really
11 equipped to handle -- I mean, this is a health problem,
12 that's not a jail problem or it's -- and so they're working
13 on it. They're trying to do something, but this whole
14 special needs for children and adults, you know, is an area
15 that I know it's contributed -- part of it is the funding,
16 you know, that used to be there is no longer. I know back a
17 long time ago when I was teaching, we had to take care of
18 special needs, but there was funding for it, but not anymore.

19 DR. BRAUNSTEIN: I'm perplexed. I'm leaving this
20 meeting today more confused than when I got here about this
21 issue. I don't know -- and Scott was speculating as to maybe
22 there's some financial, some federal program that a school
23 district gets more money if they have more kids on medication
24 or something like this. We just simply have to get smart and
25 figure out what's going on here, why some school districts in

1 they say these things and then, you know, she said she got a
2 call today, earlier today that the doctor that gave the meds
3 said that the school shouldn't have that -- that much control
4 about holding the pill bottle. He said I want to call that
5 school myself.

6 DR. BRAUNSTEIN: They shouldn't even have
7 knowledge about --

8 MS. EASTMAN: Yeah.

9 DR. BRAUNSTEIN: -- how many milligrams, or I
10 mean that's a private health -- that's a right of privacy,
11 right, to have -- I don't understand. I'm just learning
12 about this. I'm sure some of the others are learning about
13 it as well, and I can commit our attention and concern to the
14 issue. We're just going to have to get smart on it and
15 figure it out and see what's going on because I can't -- it's
16 just so different from my experience which is ignore it, you
17 know, put the kid in the white room when he acts up, you
18 know.

19 MS. EASTMAN: And then on the other side of it
20 too is if your child is quiet and if they're well behaved and
21 they don't talk very much and stuff like that, then they say
22 that, oh, I think they need extra help, I think you need to
23 -- they need to be in targeted services or kind of like
24 trying to label them as special -- I just feel like they're
25 always trying to put a label on everybody, you know.

1 South Dakota have to advocate seemingly against a brick wall
2 for a response and others seem to have a hair trigger
3 response of your kid has to have medicine and here's your
4 baggie.

5 MS. BLISS: But we don't have in South Dakota
6 very many spaces to discuss the individual needs of
7 individual people. It makes me very happy that there are
8 some people in the legislature that are thinking about doing
9 this and that they've connected the dots that there are some
10 issues. It's just like you get those dots connected there,
11 get these dots here connected. This lady waited the entire,
12 you know, day, and the meaningfulness of the personal -- all
13 the personal stories that come together, how can we make it
14 better for people? I mean, that's what the bottom line is.

15 MS. EASTMAN: Can I say another thing too?

16 DR. BRAUNSTEIN: Absolutely.

17 MS. EASTMAN: Just yesterday my sister was
18 telling me that they sent her son home from school and they
19 -- because they couldn't handle him or something like that
20 and he missed school, and I thought, well, how -- is that
21 going to, you know, be against you, you know, your kid -- if
22 they keep sending him home like that, and then they said we
23 don't think he's got the proper medicine dosages or whatever,
24 he's not on the proper dosage, so until he has the proper
25 dosage, then we'll take him back or whatever. And you know,

1 DR. BRAUNSTEIN: This is the difference between
2 your community, and I'm going to generalize and say that in
3 Indian Country, in some parts of Indian Country, I'm trying
4 to be careful, right, the experience is to different than in
5 the dominantly white community of Vermillion where that's all
6 they want is for the kids to be quiet and to not cause a fuss
7 and to be in line at the right time and then no attention is
8 paid to them, right. I was afraid you were going to say
9 something completely different, but the quick labeling of the
10 need for a quiet kid who doesn't fall outside the norm to get
11 special assistance because they're quiet, it's completely
12 opposite of my experience in Vermillion. I don't know if
13 it's Indian Country versus non-Indian Country in South
14 Dakota, but we're going to have to study it and we're going
15 to have become more informed and figure this stuff out. I
16 mean, you're just telling me something which is so far into
17 my experience and I can't explain it, so...

18 MR. GERMAN: Mr. Chairman, do you see now why as
19 an Indian, as an Indian, it feels like it is racism?

20 DR. BRAUNSTEIN: It feels like that to me too.

21 MS. BLISS: It's not subtle. It's not subtle.

22 MR. GERMAN: Why so quick to make these diagnoses
23 against Indian kids? It feels like it's racist. I've got
24 little Johnny Q. Public over here next to me. He's as
25 boisterous as I am, and I take -- honest to God, I took the

1 ACT and I think I got like 32. One of my schools of choice
 2 was USD, so the scores got sent there. I get the one-page
 3 application, I'm already accepted, mind you, pre-accepted
 4 application based on the ACT score.
 5 DR. BRAUNSTEIN: Yeah, you got a 32, just about
 6 anybody's going to take you.
 7 MR. GERMAN: My guidance counselor says, you
 8 know, Scott, I think the Army's a good idea for you. You
 9 know, college, it's tough.
 10 DR. BRAUNSTEIN: You got a 32 on your ACTs, man.
 11 For those of us that don't know what a 32 is -- a perfect
 12 score is a 36. A 32 is about a 96 percent, so there's four
 13 percent performance that separates a 32 and a perfect score,
 14 right, because once you get above 30, you're really in the 94
 15 to 95 percent of America. That means that 94 percent are
 16 scoring lower than you, Scott.
 17 MR. GERMAN: Never been to college.
 18 DR. BRAUNSTEIN: For anyone to advise you at a 32
 19 to not pursue college and to not get a full scholarship --
 20 MR. GERMAN: Subtle form of racism.
 21 DR. BRAUNSTEIN: This is --
 22 MR. GERMAN: But Johnny Q. Public just as
 23 boisterous as me, USD, you know.
 24 DR. BRAUNSTEIN: It's unimaginable to me.
 25 MS. BLISS: Did you go to USD then?

1 to standardize the experience of the ACT so everybody has an
 2 equal shot at doing their best. Anything short of that is --
 3 what did the attorney say "awful but not unlawful."
 4 MR. GERMAN: Yes.
 5 DR. BRAUNSTEIN: Is there anything else you'd
 6 like to share before we conclude our session today? You've
 7 shared an awful lot already, but if there's anything else,
 8 please feel free.
 9 MS. EASTMAN: Well, there's other things, but
 10 they're like just because I'm put on the spot, I can't
 11 remember.
 12 DR. BRAUNSTEIN: I'm going to share my phone
 13 number with you, and remember that we have a month to accept
 14 additional testimony, so you and I should talk after this
 15 session.
 16 MS. BLISS: And she can just dictate or tell you,
 17 right?
 18 DR. BRAUNSTEIN: Absolutely. Absolutely. We'll
 19 talk more about it. We'll talk more about it.
 20 MR. GERMAN: She lives -- I live in a suburb of
 21 Peever, so I can see her any time.
 22 MS. BLISS: A suburb.
 23 MR. GERMAN: Peever is like what, 250, and I'm
 24 from Big Coulee. She's from Big Coulee District as well so I
 25 live in --

1 MR. GERMAN: No, I've never been to college.
 2 DR. BRAUNSTEIN: He didn't go to college.
 3 MS. BLISS: Well, you should.
 4 MR. GERMAN: Based on the guidance of my guidance
 5 counselor --
 6 MS. BLISS: You could start at law school.
 7 DR. BRAUNSTEIN: He's fine the way he is without
 8 college. College isn't good for everybody. That said, it's
 9 good for people who get a 32 on their ACTs, particularly
 10 because they get that for free. I know because my daughter
 11 is looking for colleges right now, if she's gets a 27, she
 12 will get a free ride, and I know the schools that she'll get
 13 a scholarship. 32 is off the charts. Congratulations for
 14 that performance, and I'm sorry for the terrible advice you
 15 got. Don't write that down.
 16 MR. GERMAN: I don't regret the Army at all, but
 17 it's just again, in retrospect as I've shared that story with
 18 people from academia, they said basically what you said, the
 19 guy should have had his license jerked.
 20 DR. BRAUNSTEIN: People will fight, universities
 21 will fight over a 32 student. Literally compete to get that
 22 person because your chances for success in life are so great,
 23 which is why you cannot mess with the person's confidence
 24 during the administration of an ACT, and that is deeply
 25 troubling that there would be any intimidation or -- you have

1 DR. BRAUNSTEIN: Where's the urb?
 2 MR. GERMAN: Peever is the urb.
 3 DR. BRAUNSTEIN: Do you think it's 500,000 to be
 4 an urb? Thank you so much.
 5 MS. EASTMAN: Thank you.
 6 DR. BRAUNSTEIN: We will continue this
 7 conversation.
 8 Thank you everyone. I don't have any concluding
 9 remarks. Thank you all for your time.
 10 MS. BLISS: I think we should clap for her.
 11 DR. BRAUNSTEIN: Yes, thank you very much.
 12 (Clapping.)
 13 DR. BRAUNSTEIN: That concludes our session for
 14 today. Thank you so much.
 15 (This hearing was concluded at 7:55 o'clock,
 16 p.m.)
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1 CERTIFICATE OF COURT REPORTER

2 STATE OF SOUTH DAKOTA

3 COUNTY OF BROWN

4 CERTIFICATE OF REPORTER

5 I, Tammy Stolle, Registered Professional Reporter

6 and Notary Public, certify that as of the time I affix my

7 signature to this transcript, it contains a true and correct

8 record of the proceedings so had.

9 I further certify that I am not related by any

10 consanguinity or affinity within the fourth degree to any

11 party, his attorney, or an employee of any of them; that I am

12 not financially interested in this action; and that I am not

13 the attorney or employee of any party.

14 To all of which I have affixed my signature this

15 24th day of April, 2017.

16

17

18 /s/ Tammy Stolle

19 Tammy Stolle, RPR

20 511 N. Washington Street

21 Groton, South Dakota

22 (605) 470-0209

23

24

25

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